

Graduation and Students with Disabilities: *What Parents Need to Know*



By: *Ira M. Fingles, Esq., and Maria Fischer, Esq., Hinkle, Fingles & Prior, Attorneys at Law*

Increasingly, school districts are trying to graduate students with disabilities as early as possible. It is more important than ever for parents to know their legal rights regarding when their child with disabilities should graduate.

Q: When does eligibility for special education services come to an end?

A: A student with a disability receiving special education and related services is entitled to do so until the end of the school year in which he or she turns 21. For most teens and young adults with disabilities, special education is the primary source of funding for services until age 21.

The type and level of services the student will receive, and the question of whether the student should graduate before turning 21 depends on the student's individualized needs.

Q: What can parents do to ensure their child with a disability does not graduate before he or she should?

A: Parents who think their child will not be able to meet standard legal graduation requirements (e.g., earning sufficient academic credits, fulfilling attendance requirements, and passing certain standardized tests) until after the child turns 18 (or ever), need to begin preparing well in advance to ensure their child will remain in school until age 21. Parents should ensure their child's IEP contains goals and objectives for all of the student's needs. For example, goals and objectives should include behavioral needs, as well as transition skills such as gaining proficiency and independence in activities of daily living, self-care and personal hygiene, social skills, mobility, and vocational skills or college preparatory skills. By ensuring that the IEP is broad, and contains measurable goals and objectives in these areas, students cannot be forced to accept a diploma because there will still be unmet goals and objectives in the IEP.

When applicable, parents should also document (through letters to the district) that the child is not "generalizing" skills learned in school to other settings, such as home and the community. For instance, a student with a disability may be earning high grades in math at school, but may not be able to make simple purchases, ensure he or she receives

the correct change or use a bank. These are all reasons parents can argue that the student is not prepared for life and, therefore, the student's educational entitlement must continue.

Q: What should a parent do if the school district recommends graduation, but the parent disagrees?

A: Under the law, graduation is considered a change in placement. If a parent disagrees with the district's attempt to graduate the student for any reason, the parent must immediately file for mediation or a due process hearing. If the parent files right away, they trigger the "stay put" provision under federal law, ensuring that the student's current program remains in place through the course of the dispute (see article on stay put on cover).

Q: What are the rules regarding diplomas and graduation ceremonies?

A: The law permits a student with a disability who is not prepared to graduate at age 18 to participate in senior class activities (e.g., senior prom, senior class trips) and even graduation ceremonies without accepting an actual diploma. The student with a disability will receive his or her diploma after satisfying all the goals and objectives and graduation requirements outlined in the child's IEP, or by June 30th in the school year in which he or she turns 21, whichever comes first.

If a student is attending an out-of-district school, parents can choose to have the diploma issued from either the home school district or the out-of-district placement. If the out-of-district placement refuses to issue the diploma, the sending school district must issue it.

When a student with a disability accepts the actual state-endorsed high school diploma, all entitlements to special education and related services come to an end, and the district is no longer responsible for providing anything to that student.