



Beware the MCAS Waiver: Avoiding Early Termination from Special Education for Older Students in 2022

TIM SINDELAR

THE EDLAW PROJECT

[HTTPS://WWW.YOUTHADVOCACYFOUNDATION.ORG/EDLAW-PROJECT-OVERVIEW](https://www.youthadvocacyfoundation.org/edlaw-project-overview)



Age of Majority

603 C.M.R. § 28.07(3)

Upon turning 18 years of age, a student exercises sole decision making authority with regard to special education services

- Student may choose to delegate or share, in the presence of a Team member, decision-making authority with parents.

District must conduct a meeting with student one year prior to 18th birthday to discuss the transfer of educational decision making authority.

District must obtain consent of adult student to continuation of special education services.

Transition Planning

Beginning not later than the first IEP to be in effect when the child turns 14 and then updated annually thereafter, the IEP must include:

- **Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and independent living skills, where appropriate;**
- **Transition services needed to assist the child in reaching those goals, including courses of study; and**
- **Beginning not later than one year before the child reaches the age of majority under state law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under Section 615(m). 614(d)(1)(A)VIII**





Transition Planning Services

The term “transition services” means a coordinated set of activities for a child with a disability that:

- **Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education; vocational education; integrated employment (including supported employment); continuing and adult education; adult services; independent living or community participation; and [602(34)(A)]**
- **Is based on the individual child’s needs, taking into account the child’s strengths, preferences and interests. [602(34)(B)]**

Termination of Special Education

Age 22 OR

Graduation and:

- **Progress on some goals**
- **Proper Transitions Services Provided**
- **Proper Procedure**

Procedure for Graduation/Termination

See **Administrative Advisory SPED 2018-2: Secondary Transition Services and Graduation with a High School Diploma**

- **TEAM decision and noted on IEP**
- **Can be rejected and student stays in school under stay put until dispute resolved**



2021-2022 SY MCAS

MCAS requirements waived
for students graduating in
June 2022

MCAS Modified Competency Determination

See FAQ

Schools must submit district certification that the student earned credit for a course aligned to the curriculum frameworks in the relevant subject matter and has demonstrated competency in that subject

Students whose anticipated graduation date on their current, signed IEP is on or after July 1, 2022 are eligible for the modified CD only if the IEP Team reconvenes and agrees to change the graduation date to a new date prior to July 1, 2022

IEP Page 8 or an N1 reflecting the new date and the parent's agreement must be submitted through the 'Competency Determination' tool during an open collection window.

COVID-19 Compensatory Services and the Transition to Adult Life for Students Turning 22 between March 17 and December 23, 2020

Districts required by Coronavirus (COVID-19) Special Education Technical Assistance Advisory 2021-1: COVID-19 Compensatory Services and Recovery Support for Students with IEPs to prioritize Compensatory Service Determinations for older students, in particular if:

the student was unable to access services during the unexpected suspension of in-person education.

- **The student has demonstrated regression or has failed to make effective progress during remote learning.**
- **The student has significant difficulty with transitions and changes in routine, and there is concern that the suspension of in-person education will result in an unduly challenging move to adult agency services if no additional school services are provided.**
- **No connections, or minimal attempts at connections, have been made to the relevant adult agencies such as the Massachusetts Rehabilitation Commission (MRC), the Department of Developmental Services (DDS), or the Department of Mental Health (DMH).**
- **The student and family have been unable to follow through on identified transitional services with adult agencies because of COVID-19, or the adult agency(ies) have been unable to follow through because of COVID-19.**
- **The student had been expected to fulfill the requirements for the competency determination by their 22nd birthday but was unable to do so because of the suspension of in-person education.**

NEW STATE FUNDING - DECEMBER 2021 APPROPRIATION (Session Law - Acts of 2021 Chapter 102)

1599-2056.. For a reserve for additional funding for educational needs; provided, that not less than **\$10,000,000** shall be transferred from this item to item 7061-0012 for compensatory services **for adults that reached age 22** during the 2019 novel coronavirus pandemic