

101 CMR 10.00: TRANSITIONAL PLANNING SERVICES

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10.01: Purpose

101 CMR 10.00 establishes the procedures for the appeal, modification, extension and termination of an Individual Transitional Plan established under M.G.L. c. 71B, § 12C to disabled persons who will be losing their entitlement to special education services because of age or graduation from high school.

10.02: Definitions

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Bureau of Transitional Planning (BTP). The bureau within the Executive Office of Health and Human Services which is responsible for coordinating the development of and monitoring the implementation of an individual transitional plan.

Disabled Person. A disabled person within the meaning of M.G.L. c. 71B, § 12A.

Individual Transitional Plan (ITP). A plan for a program of habilitative services for disabled persons whose entitlement to services under special education programs has terminated or will terminate as a result of such person's graduation from high school or attainment of 22 years of age.

Transitional Advisory Committee (TAC). A committee established pursuant to M.G.L. c. 71B, § 12B which reviews and approves all ITPs. The TAC consists of the Secretary of the Executive Office of Health and Human Services or his or her designee, and representatives from the Executive Office of Labor and Workforce Development, Department of Mental Health, Department of Developmental Services, Department of Public Health, Department of Children and Families, Department of Transitional Assistance, Department of Youth Services, Massachusetts Rehabilitation Commission, Massachusetts Commission for the Deaf and Hard of Hearing, Massachusetts Commission for the Blind, and the Department of Elementary and Secondary Education.

Transitional Agency. A state agency within the Executive Office of Health and Human Services designated at the start of the transitional planning process to develop an ITP for a disabled person and to act as case coordinator to a disabled person during the transitional planning process.

10.03: Appeal of Individual Transitional Plan by a Disabled Person

Within 90 days following the receipt of an ITP approved by the TAC, a disabled person may appeal the ITP, in whole or in part, including the scope of services identified by the committee as necessary or appropriate to assist such person in realizing his or her potential for self-sufficiency in major life activities, the agencies responsible for providing such services (provided, however, that agency eligibility requirements are met), and the location and duration of such services, by filing a written notice of appeal to the EOHHS Secretary. The disabled person shall include with the notice of appeal documentation or other evidence in support of the appeal and shall provide a copy of the notice and accompanying documentation or evidence to the BTP. Failure to file a notice of appeal within 90 days following the receipt of an ITP approved by the TAC shall constitute a waiver of a right to an administrative appeal.

10.03: continued

The EOHHS Secretary, or his or her designee, may receive and consider statements of position from the BTP and any state agency designated to provide services under the ITP. Within 30 days following the receipt of a notice of appeal, the EOHHS Secretary or designee shall issue a written ruling either affirming or modifying the ITP and shall provide a copy of the ruling to the disabled person, the BTP, and any state agency which has submitted a statement of position. The Secretary's decision shall be final and shall not be subject to further administrative review.

10.04: Appeal of the Individual Transitional Plan by a State Agency

Any state agency designated on an ITP as a service provider may appeal an ITP by requesting in writing a review by the Secretary of EOHHS within 30 days of the TAC approval of the ITP to determine whether:

- (a) services to be provided are within such agency's jurisdiction or mandate,
- (b) such agency is appropriately designated as the responsible state agency; and
- (c) the duration of services to be provided is necessary and appropriate and within such agency's jurisdiction or mandate.

The appealing state agency shall include in its request documentation or other evidence in support of the appeal and shall provide a copy of the appeal and documentation or other evidence to the BTP and the disabled person. The Secretary's or designee's decision shall be final and shall not be subject to further administrative review.

10.05: Extension of the Individual Transitional Plan

Extension. The BTP may grant a request for an extension of the date for implementation of ITP beyond the projected start date for services when the person's special education termination date is changed to a later date by the local education agency, by court order, or by order of the Bureau of Special Education Appeals. A request for extension may also be granted when the services to be provided are not yet in place.

10.06: Termination of the Individual Transitional Plan

Termination. An ITP shall terminate when the state agencies designated on the ITP as service providers have developed an individualized service plan for the disabled person as specified on the ITP, and the services listed on the ITP are being provided. The transitional agency shall continue to act as case coordinator for the disabled person, and the BTP shall monitor the implementation of the ITP by the responsible agencies until these services are provided. Whenever the services outlined on an ITP are to be provided by more than one agency, the BTP shall appoint a chief case manager in one lead agency to oversee the coordination, implementation, and delivery of services to the disabled person by all the agencies designated on the ITP.

REGULATORY AUTHORITY

101 CMR 10.00: M.G.L. c. 71B, § 12 C.