

281—41.520(256B,34CFR300) Transfer of parental rights at age of majority.

41.520(1) General. The state provides, when a child with a disability (except for a child with a disability who has been determined to be incompetent under state law) reaches the age of majority under Iowa Code section 599.1, all of the following:

a. General rule.

(1) The public agency must provide any notice required by this chapter to both the child and the parents; and

(2) All rights accorded to parents under Part B of the Act transfer to the child.

b. Special rule: incarcerated eligible individuals. All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, state or local correctional institution.

c. Notice requirement. Whenever a state provides for the transfer of rights under Part B of the Act and this chapter pursuant to paragraph 41.520(1) “a” or “b,” the agency must notify the child and the parents of the transfer of rights.

41.520(2) Special rules. If a court appoints a guardian for an eligible individual who has attained the age of majority under subrule 41.520(1) and the court determines all decisions shall be made by the guardian or specifically determines all educational decisions should be made by the guardian, then rights under subrule 41.520(1) do not transfer but are exercised pursuant to any applicable orders of the court. If a court determines a child who has attained the age of majority under subrule 41.520(1) does not have capacity to make educational decisions under any other applicable statute, then rights under subrule 41.520(1) do not transfer and are exercised by the child’s parent or pursuant to court order. If and when state law provides that a competent authority may determine that an eligible individual who has attained the age of majority under subrule 41.520(1) and who has not been found incompetent by any court under this subrule, the department shall establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child’s eligibility under Part B of the Act if the child can be determined by the competent authority, by clear and convincing evidence, not to have the ability to provide informed consent with respect to the child’s educational program.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]