



Introduction

When a student with a disability attains the age of majority under state law, or is incarcerated, many rights under the Individuals with Disabilities Education Act (IDEA) transfer to the student. In some cases, IDEA rights do not transfer to the student but are retained by the student's parents or held by a third person. These charts help explain what rights transfer upon the age of majority. To select the correct chart, answer the following questions and work through the decision tree.

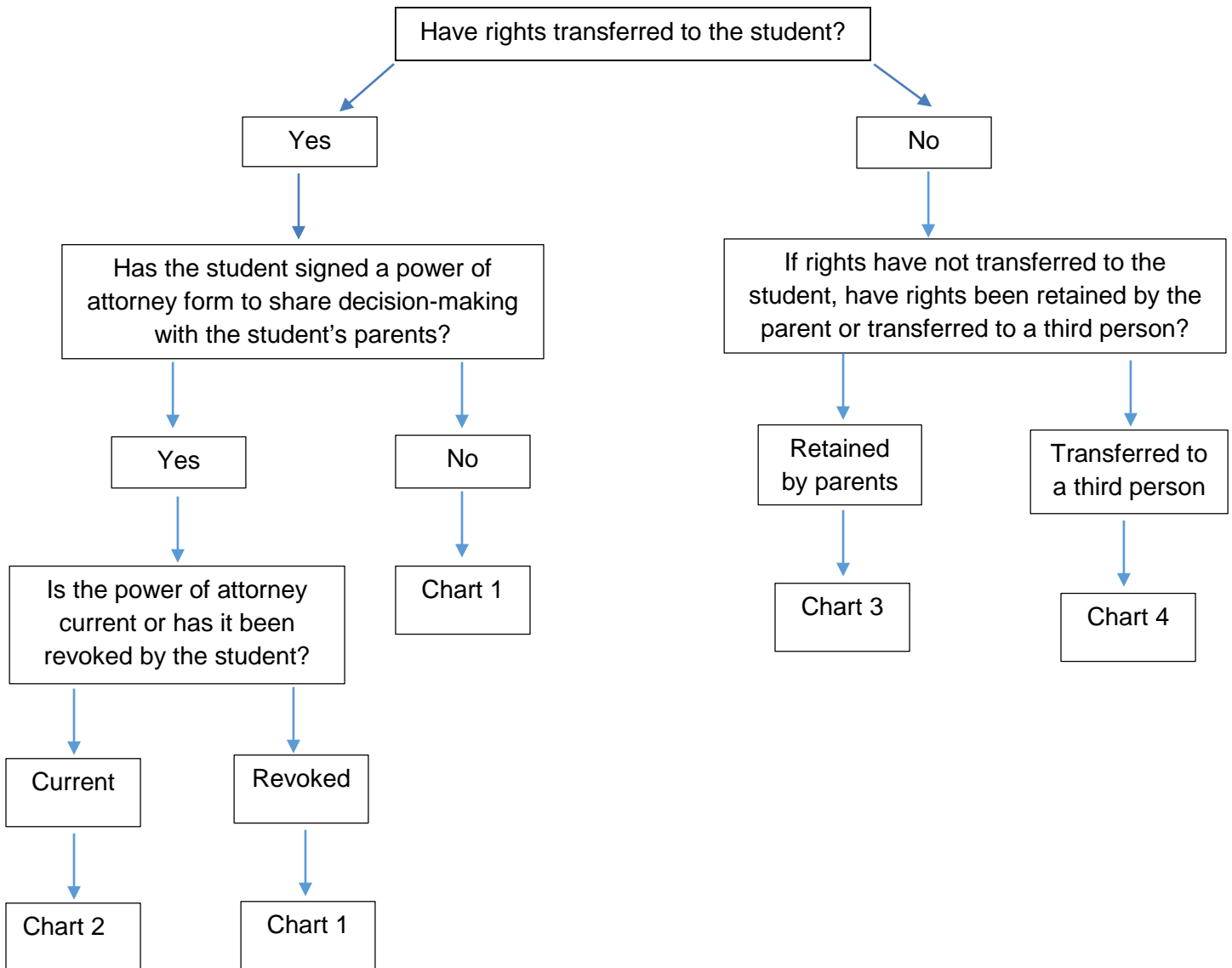


Chart 1

Rights Have Transferred to Student – Student Has Not Given Power of Attorney to a Parent or Student has Revoked Power of Attorney

Right Under IDEA	Student	Parents
Receive notice when rights have transferred	Yes	Yes ¹
Receive meeting notices	Yes	Yes
Receive procedural safeguards notices	Yes	Yes
Receive prior written notices	Yes	Yes
Attend and participate in IEP meetings	Yes	If invited by student or by AEA or district ²
Inspect and review educational records	Yes	If child is a “dependent student” (claimed as a dependent on either parent’s tax return) ³
Consent to release of educational records	Yes	No
Give consent for initial evaluations and reevaluations	Yes	No
Give consent for special education services	Yes	No
Withdraw consent for special education services	Yes ⁴	No
Request an independent educational evaluation	Yes	No
Request a mediation conference	Yes	No
File a due process complaint	Yes	No
File a state complaint	Yes	Yes ⁵
Any right not otherwise listed	Yes	No

Chart 2

Rights Have Transferred to Student – Student Has Given Power of Attorney to a Parent

Right Under IDEA	Student	Parents
Receive notice when rights have transferred	Yes	Yes
Receive meeting notices	Yes	Yes
Receive procedural safeguards notices	Yes	Yes
Receive prior written notices	Yes	Yes
Attend and participate in IEP meetings	Yes	Yes
Inspect and review educational records	Yes	Yes
Consent to release of educational records	Yes	Yes
Give consent for initial evaluations and reevaluations	Yes	Yes
Give consent for special education services	Yes	Yes
Withdraw consent for special education services	Yes	Yes
Request an independent educational evaluation	Yes	Yes
Request a mediation conference	Yes	Yes
File a due process complaint	Yes	Yes
File a state complaint	Yes	Yes
Any right not otherwise listed	Yes	Yes

¹ Parents retain notice rights under the IDEA after rights have transferred. Iowa Admin. Code r. 281—41.520(1)“c”.

² 64 Fed. Reg. 12,473 (1999).

³ FERPA provides that parents of students who have turned 18 may access student records without that student’s consent, if at least one parent claims the child as a dependent on a federal tax return. 34 C.F.R. § 99.31(a)(8).

⁴ According to the United States Department of Education, once rights have transferred, the student may revoke consent to continued special education services. 73 Fed. Reg. 73,010 (2008)

⁵ Any person may file a state complaint. Iowa Admin. Code r. 281—41.153(1).

Chart 3

Rights Have Been Retained by a Parent or Parents (Guardianship)

Right Under IDEA	Student	Parents
Receive notice when rights have transferred	Yes	Yes
Receive meeting notices	If invited	Yes
Receive procedural safeguards notices	No	Yes
Receive prior written notices	No	Yes
Attend and participate in IEP meetings	If invited by a parent, the AEA, or the district ⁶	Yes
Inspect and review educational records	If 18 years of age or older ⁷	Yes
Consent to release of educational records	If 18 years of age or older	Yes ⁸
Give consent for initial evaluations and reevaluations	No	Yes
Give consent for special education services	No	Yes
Withdraw consent for special education services	No	Yes
Request an independent educational evaluation	No	Yes
Request a mediation conference	No	Yes
File a due process complaint	No	Yes
File a state complaint	Yes	Yes
Any right not otherwise listed	No	Yes

Chart 4

Rights Have Been Granted to a Third Person (Guardian, Substitute Decision-maker, etc.)

Right Under IDEA	Student	Parents	Third Party
Receive notice when rights have transferred	Yes	Yes	Yes
Receive meeting notices	If invited	Yes, unless right limited or removed ⁹	Yes
Receive procedural safeguards notices	No	Yes, unless right limited or removed	Yes
Receive prior written notices	No	Yes, unless right limited or removed	Yes
Attend and participate in IEP meetings	If invited by third person, AEA, or district	If invited by third person, AEA, or district	Yes
Inspect and review educational records	If 18 years of age or older	If claimed as a dependent on either parent's tax return	Yes
Consent to release of educational records	If 18 years of age or older	No	Yes
Give consent for initial evaluations and reevaluations	No	No	Yes
Give consent for special education services	No	No	Yes
Withdraw consent for special education services	No	No	Yes
Request an independent educational evaluation	No	No	Yes
Request a mediation conference	No	No	Yes
File a due process complaint	No	No	Yes
File a state complaint	Yes	Yes	Yes
Any right not otherwise listed	No	No	Yes

⁶ The LEA and AEM must invite the student whenever the IEP team will discuss “consideration of postsecondary goals ... and the transition services needed to assist in reaching those goals.” Iowa Admin. Code r. 281—41.321(2)“a”.

⁷ A student who has attained the age of 18 has FERPA rights. 34 C.F.R. §§ 99.3, 99.5

⁸ Iowa Admin. Code r. 281—41.622.

⁹ This is based on the IDEA’s definition of parent. Iowa Admin. Code r. 281—41.30(2).