



# It Takes a City

DC Does it Best!

# Transfer of Rights:

## Decision-Making Supports for Adult Students with Disabilities

Presented by:



UNIVERSITY LEGAL  
SERVICES  
Protection & Advocacy Program



for the District of Columbia



District of Columbia Office of the State Superintendent of Education  
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# Topics we will cover:

- What happens when a student with an IEP turns 18?
- How do you prepare students?
- What is a guardianship?
- Why should families think about other options?
- What are some other options?



# What happens when a student with an IEP turns 18?

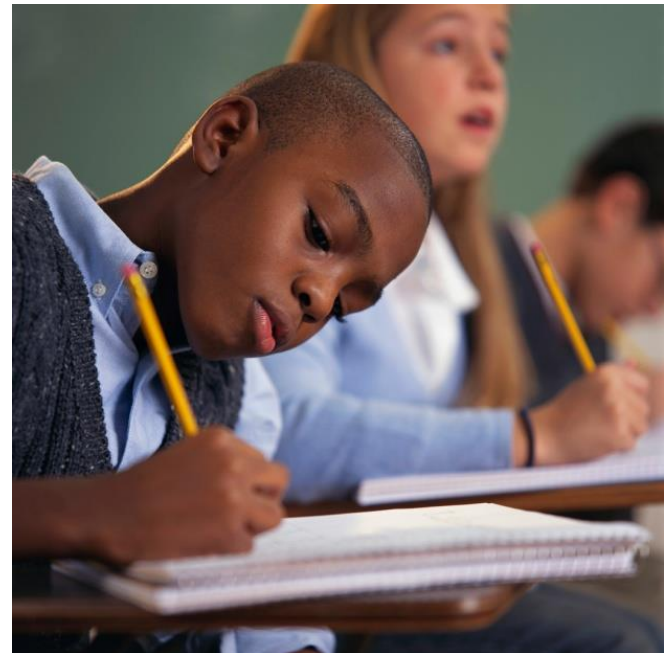
- Students become legal adults when they turn 18 years old.
- They get to make their own school decisions – even if they have a disability and an IEP.
- This is called “transfer of rights.”
  - Written notices
  - Evaluations
  - IEP meetings
  - Complaints and due process hearings



# How do you prepare students?

## START EARLY!

- Make sure students attend IEP meetings, starting in elementary school.
- Make sure IEP meetings are student-friendly.



# Continued – Prepare Students

- Allow students to lead their IEP meetings.
  - Tell students about their disabilities and what their personal strengths and needs are.
  - Describe the skills they have in each area, what their goals are, and why.
  - Help students set the tone for the meeting by doing a short presentation.
  - Based on the child’s disability, have them lead as much as possible – from simply doing introductions to more proactively guiding the team through each section.



# Continued – Prepare Students

- Support IEP goals and objectives related to self-determination and decision-making
  - For every goal, there should be an application of self-determination to get there
  - Include “I statements”
  - Promote student involvement and accountability.



# What is Guardianship?

- Guardianship takes away a person's right to make his or her own decisions and gives that right to someone else.
- Guardianship = Going to Court
- A judge decides if the person with a disability is "incapacitated."





# The Guardianship Process

- Petitions are filed in the D.C. Superior Court.
- Guardianship must be as limited as possible.
- At least one court hearing must be held.



# The Guardianship Process

- The judge can appoint:
  - An attorney to represent the person with a disability
  - A “guardian ad litem”
  - A “visitor”
  - An examiner
- The judge will decide:
  - If guardianship is needed, and
  - If so, who the guardian will be



# Guardianship after appointment

- A guardian's authority is limited by the judge's order and D.C. law.
- The guardian has a lot of responsibilities, like:
  - Submitting a written report to the court 2 x / year.
  - Coming to court for more hearings, as ordered.
  - Making decisions on behalf of the person based on the "substituted judgment" standard, unless the person's wishes cannot be known.
  - Including the person in the decision-making process.



# Why do families think about getting guardianship?

- Parents may have been told to do so if they want to:
  - Be invited to IEP meetings when their child turns 18.
  - Get information about their child's education and talk to their child's teacher.
  - Be part of their child's school planning.



# Why should families think about other options first?

- Guardianship takes away a person's rights to make important decisions about his or her life.
- The court will become part of both the guardian's and the person's lives going forward.
- The person who asks to be a guardian is not always picked to be the guardian.
- Guardianship can change relationships.
- Guardianship can take time and cost money.



# What are some other options that can be used for decisions about school?

- Supported Decision-Making
- Educational Power of Attorney



# “Supported Decision-Making”

- A way parents can help their children learn to make good decisions and ask for help from others when needed.
- Remember: Making good decisions is a skill that people learn over time and with practice!



# SDM in Education

- Help the adult student sign a “Release Form.”
- Help the student send a letter asking the school to invite the parent to all meetings.
- Help the student get ready for meetings ahead of time.
- Step out of meetings to talk one-on-one with the student.
- Inform the student of his or her right to take papers home before signing them.
- Support the student in leading his or her own IEP meeting.
- Include IEP goals on self-determination and decision-making.





# “Power of Attorney” or “POA”

- What is it?
  - A legal paper where an adult agrees that someone else will make decisions for him/her under certain circumstances and in certain areas of his/her life.
- How’s a POA different from guardianship?
  - The person decides what power to give away and who gets it, not a court.
  - The person can cancel the POA.



# Power of Attorney for Education

Compare . . .

## Educational Decision

- Deciding whether or not to file a Due Process Hearing Request to fight a change in school placement.

## Educational Power of Attorney

- Deciding who you would trust to make that school decision for you.



# Concerns about Health Care?

There are options other than guardianship you should think about, too!

- Supported Decision-Making
- Durable Power of Attorney for Health Care
- D.C. Health Care Decisions Act



# Concerns about Money?

- Representative Payee
  - Manages a person's Social Security benefits and is appointed by the Social Security Administration, not a court.
- Joint Bank Accounts & Direct Deposit



# Everyone can learn to make good decisions!



Choose the least restrictive way to support young adults with disabilities in making good choices.



# Ask Questions – Now or Later

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