



# **Preparing the Student for Age of Majority: Empowering Self-Determination & Navigating Legal Rights**

This training was developed by Project 10: Transition Education Network, an Individuals with Disabilities Education Act (IDEA) funded state project through the Florida Department of Education (FDOE), Bureau of Exceptional Education and Student Services (BESS).

# Objectives

After this training, participants will be able to:

- Understand Florida's Age 17 legal requirements for transition.
- Explain self-determination and the transfer of educational rights that occur at age 18.
- Identify and differentiate between five legal options for continued parent/guardian involvement.
- Provide effective information and instruction to students and parents.

# What's Your Background Knowledge on Age of Majority and Transfer of Rights?

3. How familiar are you with legislation related to age 17 and age 18 requirements regarding transfer of rights:

- A. I've never heard of it before
- B. I've heard of it, but don't know much
- C. I know the basics
- D. I'm fairly knowledgeable
- E. I could explain it to others

# Turning 18: What Changes?

- ❑ Upon turning 18, all educational rights under IDEA and FERPA transfer directly to the student.
- ❑ The student becomes the sole decision-maker for their education.
- ❑ This transfer occurs automatically unless specific legal mechanisms are in place.

# Turning 18: What Changes? (continued)

This means:

- ❑ The student provides consent for evaluations and placement.
- ❑ The student must provide consent for parental access to educational records (FERPA).
- ❑ Parents no longer have the right to be invited as IEP team participants unless the student gives consent or a legal mechanism allows parental participation.
  - The decision about who attends the IEP meeting now belongs to the student, not the parent.
  - The school must respect the student's right to decide whether their parent should participate in the meeting.

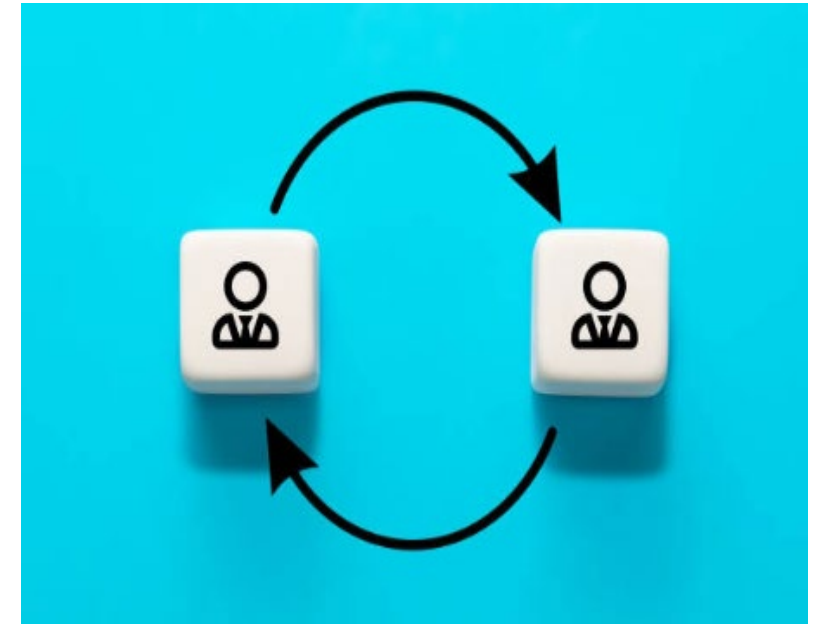
# Transfer of Rights Legislation

“At least one year before the student reaches the age of majority, provision of information and instruction to the student and his or her parent on self-determination and the legal rights and responsibilities regarding the educational decisions that transfer to the student upon attaining the age of 18. The information must include the ways in which the student may provide informed consent to allow his or her parent to continue to participate in educational decisions, including:

1. Informed consent to grant permission to access confidential records protected under the Family Educational Rights and Privacy Act (FERPA) as provided in s. 1002.22., F.S.
2. Powers of attorney as provided in chapter 709, F.S.
3. Guardian advocacy as provided in s. 393.12, F.S.
4. Guardianship as provided in chapter 744, F.S.
5. Supported Decision-Making as provided in chapter 709, F.S.

# Transfer of Rights Legislation

- ❑ Inform the parent and the student of the rights that will transfer to the student, at least one year prior to the student's 18th birthday, and document the notification on the Transition IEP. (34 C.F.R. § 300.320; Rule 6A-6.03028, F.A.C.)
- ❑ Provide the parent and student a separate and distinct notice regarding the transfer of rights when the student reaches age 18. (34 C.F.R. § 300.520; Rule 6A-6.03311(8)(c), F.A.C.)



# Transfer of Rights Legislation

## Unpacking the Age 17 Florida Requirement

- ❑ **Who** receives the information and instruction?
  - The student AND the parent/guardian.
- ❑ **When** is it provided?
  - The statute's timeline for the provision of information and instruction is at least one year before the student turns 18 (the student's 17<sup>th</sup> birthday). Consider meeting this timeline at the transition individual education plan (TIEP) meeting scheduled before the student's 17<sup>th</sup> birthday.
- ❑ **What** is provided?
  - Information: Handouts, resources, legal citations, etc.
  - Instruction: Discussion, activities, Q&A, real-life examples, role-playing, etc.

# Non-adherence Alert

- ❑ Failure to provide and document this information at age 17 is a violation of **s. 1003.5716, F.S.**, and **Rule 6A-6.03028, F.A.C.**, and may result in the student being uninformed or unprepared to exercise the educational rights at age 18. This could lead to **legal and procedural challenges** and compromise the student's access to appropriate educational planning and support.



Key Legislation  
Requires  
Assessment  
of the Student's  
Need For Self-  
Determination  
Instruction



# Transfer of Rights Legislation

## Unpacking the Age 17 Florida Requirement

### □ Florida Statute 1003.5716, F.S. states:

- "One year before the student reaches the age of majority, districts must provide **information and instruction** to the student and his or her parent..."
- "...on **self-determination** and the **legal rights and responsibilities** regarding the educational decisions that transfer to the student upon attaining the age of 18."

# Why Instruction in Self-Determination and Legal Rights Matters

It's essential to ensure that students with disabilities understand and exercise their educational rights as they become adults. Historically, many young adults with disabilities were turning 18 without fully understanding the automatic transfer of their rights, including:

- ❑ Knowing that educational rights transfer from their parents to them.
- ❑ Understanding how to make informed decisions about their education, privacy, or future.
- ❑ Becoming aware of options that allow parents to continue helping, such as supported decision-making or power of attorney.

# Fostering Self-Determination

## □ What is Self-Determination?

- The ability to make choices, set goals, solve problems, and advocate for oneself.

## □ Why it's Crucial:

- Self-determination empowers students to competently manage their education, choices, and future—assuming full legal rights and responsibilities upon reaching the age of majority.

Project 10's "Self-Determination and Self-Advocacy Guide":

[http://project10.info/Documents/SD-SA\\_Guide](http://project10.info/Documents/SD-SA_Guide)

# Self Determination: The Goal of Age of Majority



## **Student Empowerment:**

Fostering independence, self-advocacy, and informed decision-making for post-school success.



## **Strong Partnerships:**

Maintaining vital parent/guardian involvement as a key support, when desired and appropriate for the adult student.



## **Smooth Transitions:**

Preventing service disruption and ensuring a seamless handoff to post-school supports and agencies.

# Linking Self Determination and Age of Majority

- In Florida, the Age of Majority is 18, but the transfer of IDEA rights must be explicitly addressed at age 17 to ensure the student is prepared before their 18th birthday.
  - Preparation for Legal Transfer: Age 17 is the mandatory notice year in Florida when the IEP team must inform the student that self-determination skills are essential because all educational decision-making rights will legally transfer to them at the Age of Majority.

# Linking Self Determination and Age of Majority

- **Self-Determination as a Precursor:** We focus heavily on self-determination at age 17 because, by Florida statute, the IEP rights transfer entirely to the student at age 18, making self-advocacy and informed choice the only legal pathway to continued educational control.
- **The Year of Practice:** The period between age 17 and 18 serves as the student's crucial 'practice year' to master self-determination - the ability to direct their own IEP - before they assume full legal control of their educational journey at the Age of Majority.

Knowing the  
Decision-Making  
Options Is Key



# Decision-Making Alternatives: Choosing the Best Option with My Child

Florida legislation provides a system that permits persons with disabilities to participate in decision-making to the fullest extent possible.



## Supported Decision-Making

Supported decision-making (SDM) is when the power of attorney grants an "agent" or supporter(s) the authority to assist an individual with a developmental disability by receiving information and communicating on behalf of the individual within the areas identified in the supported decision-making agreement. In addition, the SDM agreement has been added to the list of documents by which a student may indicate that parental involvement in educational decision-making is desired ([Section 709.2209, F.S.](#)). Florida Statute recognizes that every individual has diverse needs and unique abilities. SDM allows individuals with developmental disabilities to participate in life decisions as fully

## Banking Services

A power of attorney that specifies the agent has the authority to conduct **banking transactions** on behalf of the person includes the following: establish, continue, modify, or terminate a banking account; contract for services available from a financial institution; withdraw money or property of the principal deposited with or left in the custody of a financial institution. ([Section 709.2208, F.S.](#))



## Power of Attorney

A **Power of Attorney** is a legal document through which a person gives someone (agent) the authority to act on his/her behalf, and the individual maintains the right to act on behalf of himself/herself. A **Durable Power of Attorney** is when the authority to act on the person's behalf does not end if the person suffers mental incapacity at some point in the future. ([Section 709.2102, F.S.](#))

## Advance Directives

**Advance Directives** are witnessed, written documents or oral statements that express a person's desires concerning health care. A **Living Will** is an advanced directive that expresses a person's instructions regarding life-prolonging procedures. A **Health Care Surrogate** is an advanced directive in which a person designates someone to make health care decisions and apply for health care benefits. ([Section 744.3115, F.S.](#))

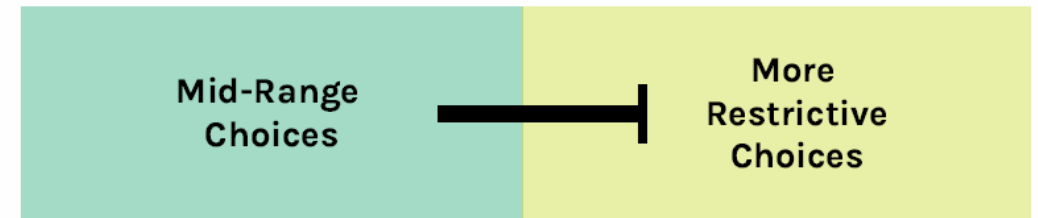
## Trusts

A legal document called a **Trust** can be used to give someone the authority to manage the property of a person who needs or wants assistance. A **Special Needs Trust** assists a person with a disability to maintain needs-based benefits, such as Medicaid health insurance by excluding certain assets and income. See [Florida Medicaid.com](#) for more information.



State Secondary Transition  
Interagency Committee, Florida

When selecting a decision-making alternative with your child, it is suggested that the best option is the one that will give the child who is becoming an adult the maximum amount of decision-making ability while also safeguarding his/her health and general welfare. Some of the options listed below can be combined in a way that matches the level of assistance that your young adult needs. Finding the right balance between assistance and autonomy is the key to ensuring your child has the opportunity to lead the most self-determined life possible.



## Medical Proxy

A **Medical Proxy** is used when a person is or has become unable to make health care decisions and an advance directive has not been established. The patient's legal guardian could be assigned as the medical proxy by a judge or others could serve as the medical proxy, such as the patient's spouse, adult child, parent or adult sibling. ([Section 765.401, F.S.](#))

## Representative Payee

A **Representative Payee** is an entity selected by the Social Security Administration (SSA) (preferably family or friends, but could be an organization) to manage an individual's SSA benefits. This means the beneficiary's benefits will go to the Representative Payee for appropriate use. The Social Security Administration (SSA) benefits must be used to provide food, clothing, shelter, medical care and personal comfort items for the SSA beneficiary. All remaining funds must be saved in an interest-bearing account or savings bonds to be used for the SSA beneficiary's future needs. ([Section 402.33, F.S.](#))

## Guardian Advocacy

**Guardian Advocacy** is available for persons with a developmental disability (DD). Individuals cannot be determined as in need of a guardian based only on the fact that they have a DD. However, if a person with a DD lacks the capacity to make some (not all) decisions related to care for person or property, a Guardian Advocate may be appointed by a circuit court to assist with decision-making in the areas of the person's needs. ([Section 393.12, F.S.](#))

## Guardianship

**Full Guardianship** is used when a person has been found to lack all capacities to care for self and property. The court (circuit court) will appoint a guardian to exercise all of a person's rights and powers that can be legally delegated. **Limited Guardianship** is used when a person has been found to lack capacities to exercise some, but not all, of their rights. The court will appoint a guardian to exercise rights that can legally be delegated. ([Section 744.102, F.S.](#))

Considering Age of Majority, Transfer of Rights and Decision-Making Options:  
[https://project10.info/Documents/Considering\\_Age\\_of\\_Majority\\_Updated\\_8.29.24](https://project10.info/Documents/Considering_Age_of_Majority_Updated_8.29.24)

# Continuing Parent/Guardian Involvement: The Options

- ❑ The law requires districts to inform students about options for their parent/guardian to remain involved.
- ❑ The student makes the choice on how (or if) parent/guardian involvement continues.
- ❑ We will review five legal mechanisms/decision-making assistance options:
  1. FERPA Consent
  2. Powers of Attorney (POA)
  3. Guardian Advocacy
  4. Guardianship
  5. Supported Decision-Making Agreements (SDMA)

# Option I: FERPA Consent

- ❑ Legal Citation: s. 1002.22 F.S. (Family Educational Rights and Privacy Act)
- ❑ What it is: A simple written release signed by the adult student.
- ❑ How it Works:
  - Grants parent/guardian permission to access confidential educational records.
  - Allows parent/guardian to attend IEP meetings.
  - Does NOT transfer decision-making authority. Student remains the educational decision-maker.

# Option I: FERPA Consent

## □ District Role:

- Provide a clear, district-specific consent form.
- Explain the scope and limitations of this consent at the Age 17 meeting.

## □ Considerations:

- Easiest and least restrictive but limited to information access.

# Option 2: Powers of Attorney (POA)

- ❑ Legal Citation: Chapter 709 F.S.
- ❑ What it is: A legal document where a competent adult (the "principal," here the student) grants specific powers to an "agent" (parent/guardian) to make decisions on their behalf.
- ❑ How it Works:
  - Can be general or specific (e.g., educational, financial, medical).
  - Student must be competent to understand and sign the POA.
  - Can be revoked by the student at any time.

# Option 2: Powers of Attorney (POA)

## □ District Role:

- Recognize and honor valid POAs.
- Consult district legal counsel if clarification is needed on specific POAs.
- Emphasize: The student must be competent to grant the POA.

## □ Considerations:

- Flexible; can be tailored to the individual's needs.
- Revocable.
- Avoids court; however, it is a legally binding document.
- Student must be competent.

# Option 3: Guardian Advocacy

- ❑ Legal Citation: s. 393.12 F.S.
- ❑ What it is: A court-ordered process for individuals with developmental disabilities (as defined by F.S. 393.063) who lack the capacity to make some or all decisions for themselves.
- ❑ How it Works:
  - A court determines the areas of decision-making that need to be delegated (e.g., educational, medical, residential).
  - The individual with the developmental disability does not lose all rights; the court specifies what rights are transferred.
  - Less restrictive than full guardianship.

# Option 3: Guardian Advocacy (cont.)

## □ District Role:

- Recognize and implement court orders for Guardian Advocacy.
- Participate in court proceedings if subpoenaed.
- Understand the specific powers granted by the court order.

## □ Considerations:

- Court-ordered
- Specific to developmental disabilities
- More tailored than full guardianship.
- Can be a complex and lengthy process.

# Option 4: Guardianship

- ❑ Legal Citation: Chapter 744 F.S.
- ❑ What it is: A court-ordered process where a "guardian" is appointed to make all decisions for a "ward" (the adult student) who is deemed incapacitated by the court.
- ❑ How it Works:
  - Court declares the individual incapacitated; all rights and decision-making authority transfer to the guardian.

# Option 4: Guardianship continued

## □ District Role:

- Recognize and implement court orders for full guardianship.
- Work directly with the appointed guardian for all educational decisions.

## □ Considerations:

- Provides an unquestionable layer of protection and legal authority to make life decisions for the individual, such as medical and financial decisions.
- Removes all decision-making from the individual; most restrictive.
- Requires an attorney and fees are involved.
- Requires ongoing annual reporting.
- Reinstating the individual's rights can be a lengthy process.

# Option 5: Supported Decision-Making Agreements (SDMA)

- ❑ Legal Citation: s. 709.2209 F.S.
- ❑ What the agreement is: A voluntary, written agreement between an adult with a disability (“principal”) and one or more supporters (“agents”).
- ❑ How it Works:
  - The supporter(s) assist the individual in understanding, making, and communicating their own decisions, but do not make decisions for the individual.
  - The individual retains all their rights and decision-making authority.
  - Can be for various areas (e.g., education, healthcare, finances) which the individual will specify.
  - In the state of Florida, a formal SDMA requires that a power of attorney grants an agent the authority to receive information and to communicate on behalf of the individual (principal).

# Option 5: Supported Decision-Making Agreements (SDMA)

## □ District Role:

- Provide resources to the student and family related to creating an SDMA.
- Recognize existing SDMAs and respect that the individual remains the ultimate decision-maker.
- Collaborate with the individual and their supporters to ensure that the individual's choices are honored and supported.

## □ Considerations:

- SDMAs do not take away any of the individual's rights.
- The individual is empowered to choose who they want as an agent(s) and the area(s) of support.
- The agent(s) must understand that an SDMA does not provide any authority to bind or act on behalf of the individual on **any** subject matter.

# Unlocking the Doors for District Implementation and Instructional Strategies



# Instructional Strategies

## Instructional Strategies:

- Integrate self-determination skills into transition IEP goals.
- Utilize Learning Strategies courses for direct instruction on legal options.
- Use interactive activities (e.g., scenarios, role-playing) in IEP meetings.
- Awareness of transfer of IEP decision-making rights.
- Understanding how to manage access to educational records and give consent under FERPA.
- Presentations on the legal transition of rights.
- Create visual aids (e.g., flowcharts) to illustrate the process.
- Hold Q&A sessions to address student questions.

IEP Section	Items to Consider	Example Documentation
<b>Transition Services/Activities</b>	Include “instruction in self-determination and rights that transfer at age 18” as a transition service	“Provide direct instruction on self-determination skills and understanding of the legal rights and responsibilities that transfer at age 18, including options such as supported decision-making, power of attorney, guardian advocacy, and guardianship.”
<b>Measurable Annual Goals</b>	If appropriate, include a self-determination or self-advocacy goal that helps the student build understanding and skills related to decision-making and independence.	“Given instruction and guided practice, the student will identify at least three personal rights and responsibilities that will transfer at age 18 and explain how they can make informed decisions in school and adult life.”
<b>Specially Designed Instruction and Related Services</b>	Outline the instruction that will be provided to meet these goals. For example, indicate if the instruction will occur in a general education classroom, special education setting, or through individualized sessions.	Self-determination and legal rights instruction focusing on advocacy skills, decision-making, and understanding her legal rights at age 18; weekly; ESE classroom/Therapy sessions/etc.
<b>Meeting Notes or Summary Page</b>	Document details about when and how instruction occurred and who provided it.	“The ESE teacher and SLP provided lessons on decision-making, self-advocacy, and the rights that transfer at age 18. Resources from Project 10 and Disability Rights Florida were reviewed with the student and parent.” <sup>32</sup>

# Addressing the Age of Majority for Students Without Capacity

- Under Section 1003.5716, F.S., all IDEA educational rights transfer to the student at age 18, unless:
  - A court has established guardianship or guardian advocacy, or
  - The student has executed a supported decision-making agreement or power of attorney allowing a parent or another adult to assist with educational decisions.

# Addressing the Age of Majority for Students Without Capacity

- If a parent has **no legal authority** and the student **cannot provide informed consent**.
  - The student technically holds the rights.
    - Even if the student cannot meaningfully exercise them, the rights legally transfer unless a court or agreement says otherwise.
  - The district cannot assume parental authority.
    - Without guardianship or supported decision-making, the parent is not the legal decision-maker.
    - The district can continue to include the parent as a participant with the student's assent, if possible, or based on the student's educational interest when the student cannot communicate assent.

# Addressing the Age of Majority for Students Without Capacity

- ❑ Document everything.
  - The IEP team should note that the student has reached the age of majority, has not executed any decision-making arrangement, and appears unable to provide informed consent.
  - Document all efforts to inform the family of options (e.g., supported decision-making, guardianship, power of attorney).
  - Continue to provide notice to both the student and the parent, and record that the parent is being involved to ensure educational continuity for the student's benefit.
- ❑ Encourage immediate action.
  - The district should strongly encourage the family to pursue the most appropriate legal mechanism — ideally supported decision-making (as allowed under §709.2209, F.S.) or guardian advocacy under §393.12, F.S.

# Project 10 Resources

- ❑ Project 10 Trainings: <https://project10.info/DPage.php?ID=319#NS105>
  - Self Determination and Self Advocacy
  - The Power of Student Engagement in Secondary Transition Individual Educational Plan (TIEP) Meetings
- ❑ Project 10 Publications: <https://project10.info/DPage.php?ID=77#NS138>
  - Student Educational Rights Checklist
  - Self Determination and Self Advocacy Guide
  - Considering Age of Majority, Transfer of Rights and Decision-Making Options
  - The Power of Student Engagement in Secondary Transition Individual Educational Plan (TIEP) Meetings
  - Technical Assistance on Transfer of Rights at Age of Majority
  - Self Determination at Age 17: What, How, and Where

# Supported Decision-Making Agreements (SDMA) Resources

- ❑ Disability Rights Florida "Supported Decision Making" web page: [https://disabilityrightsflorida.org/disability-topics/category/supported\\_decision\\_making](https://disabilityrightsflorida.org/disability-topics/category/supported_decision_making).
  - Helpful Supported Decision Making Tools, including a sample SDMA template: [https://disabilityrightsflorida.org/disability-topics/disability\\_topic\\_info/how\\_to\\_use\\_sdm](https://disabilityrightsflorida.org/disability-topics/disability_topic_info/how_to_use_sdm)
  - "FAQs about Supported Decision-Making": [https://disabilityrightsflorida.org/disability-topics/disability\\_topic\\_info/faqs\\_about\\_supported\\_decision\\_making](https://disabilityrightsflorida.org/disability-topics/disability_topic_info/faqs_about_supported_decision_making).
- ❑ Nova Southeastern University DIAL (Disability Inclusion and Advocacy Law) Clinic's Supported Decision-Making template: <https://bpb-us-el.wpmucdn.com/sites.nova.edu/dist/6/103/files/2024/06/SDM-Agreement.pdf>

# Additional Resources

- ❑ [Disability Rights Florida - Turning 18 & Other Options](#)
- ❑ [Disability Rights Florida: What Are the Alternatives to Guardianship](#)
- ❑ [Florida Developmental Disabilities Council - Developing Abilities and Restoring Rights](#)
- ❑ [Florida Developmental Disabilities Council - Lighting the Way to Guardianship and Other Decision-Making Alternatives - A Manual for Individuals and Families](#)
- ❑ [Exemption from Selective Service Registration](#)
- ❑ [Exploring My Decision-Making Options](#)
- ❑ [Family Network on Disabilities \(FND\) - Planning is Crucial: Guardianship and Alternatives](#)

# Questions and Thank You!

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Thank you for your  
attendance and participation!



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For more information visit our website at [www.Project10.info](http://www.Project10.info)