

# Transition Planning...

## What's it all about?



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— LAW —

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# Why are you here?



To learn about the transition planning process and how to assist your child.



To learn how to best prepare your child for the future.



To be aware of Guardianship Options and how to appropriately assist your child with decision-making and supports needed for the future.

# Begin with the End in Mind...

## Questions to consider regarding transition planning:



Is the student able to make his/her own decisions?



Is the student able to work?... Where will the student work? What will the student do?



Does the student have a circle of friends?... Does the student participate in recreational activities?

# Begin with the End in Mind...



Is the student able to live independently? Where will the student live?



What will the student do about money?



How will the student manage healthcare? Can they handle their own healthcare needs?







How will the student handle transportation? How will they get anywhere?

# Family Involvement and Transition

The success of transition planning depends on each member of the family.

Students are the key team players! ***(It's all about them!)***

Parents/Families are very influential and critical members in the transition process:

-  Parental involvement is a very important factor to a successful transition.
-  Parents provide beneficial information about the student, expectations for the future, family resources, and services needed.
-  Families are very diverse: concerns, needs, culture, background knowledge, and comprehension of the process need to be respected and considered.
-  Parents need to be informed about resources available, such as agencies, guardianship options, community supports, and planning effectively for their child's future.

# Transition Planning:

## Helping students be successful in school and in life!

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Transition is the process of getting ready to move from school to adult life...

This process occurs over a period of several years and involves planning, goal setting, instruction, services, and activities designed to make the “transition” seamless, effective and successful.

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# Transition Planning: Helping students be successful in school and life!

Transition Planning incorporates a coordinated set of services assisting students to prepare for post-school living. These services include:

-  College/University Programs
-  Continuing and Adult Education
-  Career and Technical (Vocational) Training
-  Employment
-  Adult Services for Various Agencies
-  Independent Living
-  Community Participation

# When should planning for transition services begin?

Transition planning officially begins at age 14 (when it needs to be addressed on the Transition/ Individualized Education Plan-T/IEP).

But... early transition planning may help prevent a student from dropping out.

Earlier transition planning may be needed for students with significant disabilities because it takes more time to set up needed post-school services, such as agencies.

Teachers play an essential role in introducing and implementing Transition Planning into a student's IEP.

# Specific Transition Requirements (begin at age 14)...

Begin instruction in Self-Determination and **Self Advocacy** (address on IEP as a goal)

Diploma Decisions and Designations (Changed July 2014/SB 850)

Course/Preparation for Designations

Annual Goals including Career Goals

Transition Assessments used to gather data and information about the student

Transition Services:

- Instruction
- Related Services
- Community Experience
- Post-School Adult Living
- Daily Living Skills (If Appropriate)
- Functional Vocational Evaluation (If Appropriate)

# Specific Transition Requirements (Age 16) ...

## Measurable Postsecondary Goals (MPGs)

Education

**Employment**

Independent Living

**Career Goal**

## Agency Linkages/Involvement

Agency for Persons with Disabilities (Med Waiver/Statewide Medicaid  
Managed Care Long-term Care Program)

Vocational Rehabilitation

## Discussions about Transfer of Civil Rights (Age of Majority)

**Civil Rights Transfer Age 18 for All Students in Florida**

# Specific Transition Requirements (Age 18)...

## Transfer of Civil Rights (Age of Majority)

**Occurs at Age 18 for All Students in Florida**

## Consider Postsecondary Options

Will student defer graduation to age 21

Will student graduate and pursue other options

Begin Summary of Performance process (Transition Interview, Action Plan, SOP completion) to assist with Postsecondary Options

# Things to Consider...

## Age 18 and older



### **Guardianship Options**



Agency Referrals, such as Vocational Rehabilitation (VR) and Agency for Persons with Disabilities (APD)



Social Security Income (SSI) or Social Security Disability Income (SSDI)



Transportation Services



Living Arrangements/Facilities (needs based)



Recreational/Leisure Activities

# Understanding Guardianship

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- **What is Guardianship?**
    - **A legal process where a court appoints someone to make decisions for the adult child.**
    - **Can cover personal, financial, or medical decisions.**
  - **Types of Guardianship**
    - **Full Guardianship: Full control over all decisions.**
    - **Limited Guardianship: Control over specific areas like healthcare or finances.**
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# Guardianship Process

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## . **How to Obtain Guardianship in Florida**

1. File a petition with the court.
  2. Hire Attorney for child
  3. Series of three exams
  4. Attend a hearing to determine incapacity.
  5. Court appoints a guardian if deemed necessary.
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# Guardianship Advocacy

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## What is a Guardian Advocate?

Parents no longer have the legal authority to make decisions for their children after they turn 18 years of age. Guardian Advocacy is a process for family members, caregivers, or friends of individuals with a developmental disability to obtain the legal authority to act on their behalf if the person lacks the decision-making ability to do some, but not all, of the decision-making tasks necessary to care for his or her person or property. This is accomplished without having to declare the person with a developmental disability incapacitated. Guardian Advocate appointments are governed by Florida Statute §393.12 as well as Florida Statute chapter 744.

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# Guardianship Advocacy

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## Who is developmentally disabled?

Under Florida Statute §393.063(12), a person with a developmental disability must have an Intellectual Disability (IQ less than 70), Cerebral Palsy, Autism, Spina Bifida, Downs Syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome that manifested before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

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# Guardianship Advocacy

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## **What are the powers and duties of a Guardian Advocate?**

They include but are not limited to: filing an initial plan and annual reports; making provisions for medical, mental health, dental and personal care of the person with a developmental disability; making residential decisions on behalf of the person with a developmental disability; advocating on behalf of the person with a developmental disability in institutional and other settings; and making financial decisions on behalf of the person with a developmental disability. A Guardian Advocate need not be the caregiver of the person with a disability.

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# Guardianship Advocacy

## **Do I need an attorney to become a Guardian Advocate?**

The process of becoming a Guardian Advocate of a person with a developmental disability does not require the hiring of an attorney. During the Guardian Advocacy proceedings, the Court will appoint an attorney for the person with a developmental disability to ensure that his or her best interests are protected. The attorney will need to meet face-to-face with the person with a developmental disability. If the person with a developmental disability is deemed to be indigent, the attorney will be provided at no cost from the Office of Criminal Conflict & Civil Regional Counsel or, in the case of a conflict, from a registry of qualified attorneys. If the person with a developmental disability is not deemed to be indigent, a private attorney will be appointed from a rotating list of qualified attorneys. The attorney will charge customary fees that may be paid out of the assets of the person with a developmental disability.

If there is property involved, other than Social Security benefits or other government payee programs, the person seeking to become a Guardian Advocate of the person and the property must hire an attorney. These property rights include, but are not limited to: a pending lawsuit, estate matter, or other income or property right coming to the person with a developmental disability.

# Guardianship Advocacy

## Who may serve as a Guardian Advocate?

Any resident of the State of Florida who is 18 years old and of sound mind is qualified to act as a Guardian Advocate. In addition, a non-resident may serve if he or she is related to the person with a developmental disability by blood, adoption or law according to Florida Statute §744.309(2).

The court may appoint any person whom it considers fit, proper, and qualified to act as guardian whether or not that person is related to the person with a developmental disability.

However, the court gives preference to a person who:

- Is related by blood or marriage to the person with a developmental disability;
- Has relevant educational, professional or business experience;
- Has the capacity to manage the finances involved; or
- Has the ability to meet the requirements of the law and the unique needs of the individual.

# Guardianship vs. Guardianship Advocacy

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- **Guardianship**

- Requires a court determination of incapacity.
- Broad control over all decisions.
- May limit the individual's independence.

- **Guardianship Advocacy**

- No incapacity determination required.
  - Applies to developmental disabilities from childhood.
  - Guardians can make personal, financial, and medical decisions but with more flexibility.
  - Often faster and more affordable than traditional guardianship.
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# Power of Attorney (POA)

## What is Power of Attorney (POA)?

- A legal document that grants one person (the "agent") the authority to act on behalf of another person (the "principal") in specific matters, such as finances or healthcare.
- Does **not** require a court process, unlike guardianship.

## Types of Power of Attorney for Special Needs Children:

- **Durable Power of Attorney (DPOA):** Remains in effect even if the principal becomes incapacitated.
- **Healthcare Power of Attorney:** Specifically grants authority to make medical decisions for the principal.
- **Financial Power of Attorney:** Gives the agent authority over financial matters, including managing bank accounts, paying bills, and handling other financial transactions.

## When to Consider Guardianship Advocacy vs. POA

- Guardianship Advocacy: For adults with lifelong developmental disabilities.
- POA: For adults capable of making decisions with some support.

# Supported Decision-Making Agreement

## What is Supported Decision-Making (SDM)?

- A legal tool that allows individuals with disabilities to retain their decision-making ability with the support of trusted individuals.
- Rather than transferring decision-making authority (as in guardianship), the person with a disability makes their own decisions, with assistance.

## How Does It Work?

- The individual (known as the "decision-maker") chooses one or more trusted people (known as "supporters") to assist in understanding, making, and communicating decisions.
- Supporters help with:
  - **Medical decisions:** Understanding treatment options and communicating with healthcare providers.
  - **Financial decisions:** Managing bank accounts, paying bills, budgeting.
  - **Personal decisions:** Making choices about living arrangements, education, employment, etc.

# Supported Decision-Making Agreement

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## Legal Status in Florida

- While Florida has enacted a formal Supported Decision-Making law HB 73 effective July 1, 2024

## Benefits of SDM

- **Preserves autonomy:** Individuals retain full control over their decisions.
  - **Flexibility:** Can be used in conjunction with other tools like Power of Attorney or Guardianship Advocacy.
  - **Empowerment:** Encourages independence while still offering needed support.
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# Supported Decision-Making Agreement

## Steps to Create a Supported Decision-Making Agreement

- 1.Choose Supporters:** The decision-maker selects trusted individuals who will assist in decision-making.
- 2.Draft an Agreement:** Clearly outline the roles and responsibilities of supporters.
- 3.Review & Sign:** The agreement is signed by the decision-maker and the supporters; legal counsel is recommended to ensure it is properly drafted.

## Is SDM Right for Your Child?

- Ideal for individuals who can make decisions with guidance rather than needing full guardianship or guardianship advocacy.
- May provide a middle ground between independence and support.

# QUESTIONS?



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