

Module 5:
Legal & Financial Aspects of
Transition

Module Learning Objectives

- ▶ List legal rights & responsibilities conferred at age 18
- ▶ Describe programs that address legal & financial needs
- ▶ Address legal & financial considerations in transition plans

▶ 2

Legal & Financial Aspects of Transition:
Significance

Legal Rights at 18th Birthday

- ▶ Vote
- ▶ Get married
- ▶ Sign contracts
- ▶ Decide where to live
- ▶ Information privacy
- ▶ Apply for credit

▶ 4

Legal Responsibilities at 18th Birthday

- ▶ Jury duty
- ▶ Liability for contracts signed
- ▶ Self-support
- ▶ Draft registration
- ▶ Carry identification

▶ 5

Educational Rights at 18th Birthday

- ▶ Review educational records
- ▶ Discontinue education
- ▶ Consent or refuse IEP services
- ▶ Choose IEP meeting attendees
- ▶ Request IEP "due process hearing"

▶ 6

Medical Rights at 18th Birthday

- ▶ Privacy of medical records
- ▶ Consent or refuse treatment
- ▶ Independent decision-making

▶ 7

Rights of Adults' Parents?

- ▶ No right to access to their child's personal health information without prior consent
- ▶ No authority to make medical decisions
- ▶ HIPPA Compliance

▶ 8

Legal Guide for New Adults



▶ 9

Programs that Address Legal & Financial Aspects

I: Department of Vocational Rehab

Vocational Rehab Programs

- ▶ Deaf and Hard of Hearing Services
- ▶ Supported Employment
- ▶ Ticket to Work
- ▶ Independent Living Program
- ▶ Injured Worker Program
- ▶ Adults with Disabilities
- ▶ School-to-Work Transition

▶ 11

School-to-Work Transition

- ▶ Medical and psychiatric diagnosis
- ▶ Vocational evaluation and planning
- ▶ Training and education after high school
- ▶ Job-site assessment and accommodations
- ▶ Supported employment
- ▶ Support services
- ▶ Counseling and guidance

▶ 12

Referrals for School-to-Work Transition

- ▶ Make referral around age 16
- ▶ (850) 245-3399
- ▶ (800) 451-4327

▶ 13

Order of Selection

- ▶ APPLY!
- ▶ Waiting list
- ▶ Use IHP/504/IEP
 - ▶ Identify referral date

▶ 14

Transition 2 Go: VR



School to Work Transition Vocational Training

After years of studying, it's time to look forward to finding a job and being independent. For young Floridians with disabilities, career goals include employment. The Florida Department of Education's Division of Vocational Rehabilitation only can provide critical support services. This federal-state program works with people who have physical or mental disabilities to prepare for gainful and/or unpaid employment.

Individual planning for individuals with disabilities involves working with their ability to seek out and obtain equality for all areas of VR programs, including the School to Work Transition program. The School to Work Transition program specifically helps students gain 16-20 credits for employment and adult life. VR transition activities can help students enter training, continue education, and/or find a job after leaving high school.



▶ 15

Programs that Address Legal & Financial Aspects

II: Decision-making Supports

Decision-Making Is

- ▶ Ability to recognize that a decision must be made
- ▶ Ability to identify existing options
- ▶ Ability to determine a course of action

▶ 17

Decision-Making Is **ALSO**

- ▶ Making a **bad** decision
 - ▶ Unhealthy
 - ▶ Not financially sound
- ▶ Completed **with help** of others
- ▶ **Sometimes** uninformed

▶ 18

Middle Adolescence: Decision-Making

- ▶ Complex problem-solving
- ▶ Consider multiple elements
 - ▶ Simultaneously
 - ▶ Systematically
 - ▶ Exhaustively

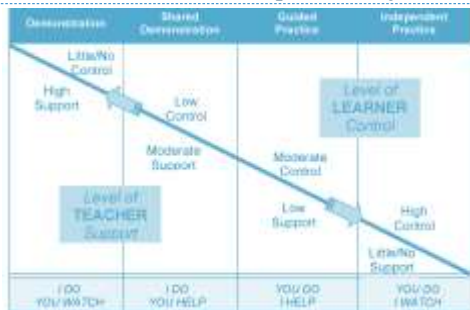
▶ 19

How Decision-Making Capacity Develops

- ▶ Ages & stages
- ▶ Cause-and-effect
- ▶ Goal formation
- ▶ Rational thought
- ▶ Brain development continues throughout
 - ▶ Until around age 26

▶ 20

Gradual Release of Responsibility



▶ 21

Decision-Making Supports

- ▶ Informal network
- ▶ Designated health care surrogate
- ▶ Guardian advocacy
- ▶ Guardianship

▶ 22

Informal Support Network

- ▶ Retains all rights & responsibilities
- ▶ Receives guidance and advice
- ▶ Family, friends, social services

▶ 23

Examples of Informal Supports

Type of Support	How They Support
Supportive and trusted individuals (family members and close friends)	Support risk/benefit analysis when making decisions for everyday life
In-home care services	Assist/support medication management and other medical tasks (catheter) Assist with activities of daily living Provide in-home therapy
Case management services	Coordinate services across agencies
Free/reduced price meals, food, and prescription delivery	Deliver prepared food, groceries, or prescriptions to the home
Free/reduced price transportation services	Taxi vouchers, van services, and mass transit services
Daily call services	Check-in via phone to verify wellness
Medical release forms	Authorizes extent to which private medical records can be shared and with whom Maintains decision-making power with the individual

Health Care Surrogate - Defined

- ▶ Student designates medical decision-maker
- ▶ Student retains non-medical rights and responsibilities
- ▶ Student defines parameters of surrogate activities

▶ 25

Physician Role: Health Care Surrogate Process

- ▶ Determine capacity
- ▶ Second opinion
- ▶ Comply with document

▶ 26

School Role: Health Care Surrogate Process

- ▶ Who
- ▶ What
- ▶ Where
- ▶ When
- ▶ How

▶ 27

Interactive Question

Have any of your students completed the process to assign a health care surrogate?

How involved in or aware of the process were you?

▶ 28

Guardianship - Defined

- ▶ Legal determination
- ▶ Declares adult incompetent
- ▶ Names guardian and parameters
- ▶ Lifetime declaration

▶ 29

Rights Lost Under Guardianship

- ▶ Cannot vote
- ▶ Cannot buy or sell items on-line
- ▶ Cannot agree to legal representation
 - ▶ Even if guardian suspected of abuse/neglect/exploitation
- ▶ Cannot consent to emergency medical procedure

▶ 30

Rights Guardians Gain

- ▶ Elective surgeries
 - ▶ Including sterilization

- ▶ Agree to lease a sixth floor walk-up
 - ▶ Even for a person who uses a wheelchair

- ▶ Nursing home admission

- ▶ Refuse life-saving medical treatments

- ▶ Loan agreements

▶ 31

Duration = Lifetime

- ▶ Guardianship is not a temporary state

- ▶ Consider your student in middle age
 - ▶ What skills might develop in the late 20s?
 - ▶ How might resources change?
 - ▶ If parents/siblings become unable to serve as guardian

▶ 32

Guardianship Process

- ▶ File application
 - ▶ County probate court

- ▶ Student receives notice

- ▶ Judge makes determination

- ▶ Appoints guardian

▶ 33

Role of Physician in Guardianship Process

- ▶ JUDGE determines competence
 - ▶ PHYSICIAN provides medical evidence
- ▶ Assess decision-making ability
- ▶ Complete forms or provide statement

▶ 34

School Role in Guardianship Process

- ▶ Documents may be subpoenaed from school
- ▶ School staff members may be required to testify
- ▶ Educators CANNOT determine “competence”

▶ 35

Potential Guardians

- ▶ Complete a separate application
 - ▶ Criminal background check
 - ▶ Financial history
- ▶ State guardians
- ▶ Providers as guardians

▶ 36

Guardian Advocate - Defined

- ▶ People with developmental/intellectual disabilities
- ▶ Disability MUST
 - ▶ Begin before age 18
 - ▶ Impair decision-making ability

▶ 37

Guardian Advocate - Process

- ▶ Similar to guardianship process
- ▶ No determination of competence
- ▶ Additional protections for wards
- ▶ Less costly

▶ 38

Transition 2 Go: Guardianship



Guardianship and Other Decision-Making Alternatives

Reaching the age of majority — 18 years old in Florida — means an individual is no longer a "minor." As such, the person has the right and responsibility to make certain legal choices that adults make. For some young adults with intellectual disabilities, this may be an exciting opportunity for increased independence. But there may also be family concerns about how to best support that person's self-determination in making important life decisions, such as in health care or financial management.

Many parents and caregivers are surprised to learn that when their child turns 18, they may not be able to direct or participate in their child's medical treatment, except as in grave illness or emergency. Further, courts and government agencies have made the duty for the ability to obtain an 18-year-old's benefits or financial issues with parents.

▶ 39

Programs that Address Legal & Financial Aspects

III: Income Supports

Social Security Insurance - SSI

- ▶ Medical & financial need
- ▶ For children and adults
- ▶ Monthly income benefits
- ▶ Medicaid benefits

▶ 41

Social Security Disability Insurance - SSDI

- ▶ Medical and financial needs
- ▶ Disabled adults
 - ▶ Disabled after working
 - OR
 - ▶ Disabled before age 22
- ▶ Monthly income benefit
- ▶ Medicare benefits

▶ 42

Eligibility After 18th Birthday

- ▶ 1 year review period
- ▶ Adults' medical requirements
 - ▶ Functional capacity
 - ▶ Condition-specific symptoms

▶ 43

Booklet from Social Security



▶ 44

Disability Determination Services in Florida



▶ 45

Eligibility Determination Tools

- ▶ Parent interview

- ▶ Health care provider

- ▶ Teachers, day care providers, family members

- ▶ School records

- ▶ Medical records

▶ 46

Role of Provider in Social Security Determinations



▶ 47

Educator's Role in Social Security Determinations

- ▶ Documents that may be required

- ▶ Testimony may be required

- ▶ Disability determinations require
 - ▶ Functional limitations
 - ▶ Deficits

▶ 48

Legal & Financial Aspects of Transition: In School

49

The Transition Process: Legal & Financial

- 1. Envisioning a Future
- 2. Basic Knowledge
- 3. Health Care Practices
- 4. Medications & Equipment
- 5. Doctor Visits
- 6. Health Care Transition
- 7. Transition to Adulthood
- 8. Health Care Systems

▶ 50

Florida Algorithm



▶ 51

Use the Transition Plan

- ▶ Medical confidentiality & consent
- ▶ Financial supports
- ▶ Decision-making capacity
- ▶ Adult social services

▶ 52

Social Services & Financial Discussions

- ▶ When to apply for specific programs
- ▶ Services newly available/no longer available
- ▶ Documentation necessary
- ▶ Waiting lists

▶ 53

Interactive Question

At what age would you begin conversations on legal and financial considerations?

How can you prepare parents and students for these changes?

▶ 54

When You Are Concerned about Student's Decision-Making Capacity...



▶ 55

Decision-Making Discussions with Parents

- ▶ Provide objective information
- ▶ Test out informal supports
- ▶ Discuss with student
- ▶ Maximize independence and self-determination

▶ 56

Common Pitfalls When Discussing

- ▶ Overly focusing on one area
 - ▶ Education rights
 - ▶ Medical decisions
- ▶ Viewing guardianship as less than a lifetime
- ▶ Prioritizing parents' fears
- ▶ Assuming someone else will address this later

▶ 57

Transition Plan: Informal Support Network

- ▶ Identify and invite individuals
- ▶ Practice using supports
- ▶ Include in medical journal, e-summaries, etc.
- ▶ Sign releases of information
- ▶ Update emergency contacts

▶ 58

If Guardianship Appears Necessary

- ▶ Document alternatives attempted and their outcomes
 - ▶ Which alternatives? How long? Does outcome demonstrate lack of decision-making capacity?
- ▶ Identify date by which petition must be filed
- ▶ Determine additional documents required

▶ 59

Transition Plan: Guardianship

- ▶ Find legal counsel or advice
- ▶ Complete assessment
- ▶ Gather documentation
- ▶ Complete court procedures

▶ 60

Who Can Support Educators?

- ▶ Centers for Independent Living
- ▶ Medical providers
- ▶ Program specific caseworkers

▶ 61



Center for Supported Decision-Making



▶ 63

Disability Rights Florida



▶ 64

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Ticket to Work



▶ 65

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P.A.S.S.



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SSA.gov



▶ 67

Housing Resource Guide



▶ 68

Transportation



▶ 69

Key Points

- ▶ Range of supports and options
- ▶ Use the transition plan
- ▶ Start early

▶ 70

Summary of Financial Tools

Module 5: Legal and Financial Considerations

Summary of Financial Tools

1. [Financially Transition 2 In: FS](http://www.fairbanks.org/wp-content/uploads/2010/03/FS_CRM_consumer1.pdf)
http://www.fairbanks.org/wp-content/uploads/2010/03/FS_CRM_consumer1.pdf
2. [The Law Wagon](http://www.rehabworks.org/what.html)
<http://www.rehabworks.org/what.html>
3. [Plan for a Lifetime of Support](http://www.nas.org/publications/research/vol1/psu.htm)
<http://www.nas.org/publications/research/vol1/psu.htm>
4. [Financial Checklists](http://www.rehabworks.org)
<http://www.rehabworks.org>
5. [Florida Independent Living Council](http://icf.mckn.org/papers.html)
<http://icf.mckn.org/papers.html>
6. [Developing a Lifetime of Financial Support](http://www.nas.org/pubs/CR-45-1992a.pdf)
<http://www.nas.org/pubs/CR-45-1992a.pdf>

▶ 71

Summary of Legal Tools

Summary of Legal Tools

1. [Center for Supportive Decision Making](http://support.socal.independentliving.org)
<http://support.socal.independentliving.org>
2. [Financially Transition 2 In: Consumer](http://www.fairbanks.org/wp-content/uploads/2010/03/FS_CRM_consumer1.pdf)
http://www.fairbanks.org/wp-content/uploads/2010/03/FS_CRM_consumer1.pdf
3. [Just Starting: Legal Tools for State Adults](http://www.fairbanks.org/files/FS_CRM_consumer1.pdf)
http://www.fairbanks.org/files/FS_CRM_consumer1.pdf
4. [Florida Disability Rights](http://www.independentliving.org/resources/financial_tips_index.html)
http://www.independentliving.org/resources/financial_tips_index.html
5. [Financial Value - Research on Adult Legal Decision Making](http://www.pwllaw.com/news/1704493839)
<http://www.pwllaw.com/news/1704493839>

▶ 72

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2. **IR Program**. Florida Department of Education, Division of Rehabilitation Services. 2014. Accessed 5/23/2014. <http://www.flabworks.org/ir/program.html>.

3. **School-to-Work Transition Program**. Florida Department of Education, Division of Rehabilitation Services. 2014. Accessed 5/23/2014. <http://www.flabworks.org/swt.html>.

4. **Tangir, H. Guardianship & Other Options**. Disability Rights Florida. 2013. Accessed 6/23/2014. <http://www.disabilityrightsfla.org>.

5. **Milz, CE (2013)**. Guardianship alternatives: Their use affects self-determination of individuals with intellectual disability. *Education and Training in Autism and Developmental Disabilities*, 48(3), 291-305.

6. **Kirwood, L. R. Guardian Ad Litem Information for Persons with Developmental Disabilities**. 2010. Accessed 6/5/2014. <http://www.inhivetrust.org/files/education/parent/downloads/GuardianAdLitem/GAInformation.pdf>.

7. **Benefits for Children with Disabilities**. Social Security Administration January 2014. SSA publication no. 05-10028, KCM 403340. Unit of Issue HQ (one hand only). Accessed 5/24/2014. <http://www.ssa.gov/pubs/EN-05-10028.pdf>.

8. **Disability Benefits**. Social Security Administration. 2014. Accessed 5/24/2014. <http://www.ssa.gov/disability/>.

9. **Disability Determination**. Florida Department of Health, Division of Disability Determination. 2014. Accessed 5/24/2014. <http://www.floridhealth.gov/healthy-people-and-families/people-with-disabilities/disability-determination/index.html>.

10. **Take to Work Program**. Florida Department of Education, Division of Vocational Rehabilitation. 2014. Accessed 5/24/2014. <http://www.flabworks.org/take.html>.

11. **Plan to Issue Self-Employment (P.A.S.S.)**. Social Security Administration. 2014. Accessed 5/24/2014. <http://www.ssa.gov/disabilityresearch/wjpass.htm>.

12. **Florida Developmental Disabilities Council 2013**. *Building a Florida – A message for people with developmental disabilities*. Published by the Florida Housing Coalition. <http://www.flhrc.org/sites/default/files/Building2013.pdf>.

13. **Florida Commission for the Transportation Disadvantaged**. 2014. <http://www.flcda.com/flcda/>.