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

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

Legal Responsibilities at 18th Birthday

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

Educational Rights at 18th Birthday

- Review educational records
- Discontinue education
- Consent or refuse IEP services
- Choose IEP meeting attendees
- Request IEP “due process hearing”
Medical Rights at 18th Birthday

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

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

Legal Guide for New Adults
Programs that Address Legal & Financial Aspects

1: 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

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
Referrals for School-to-Work Transition

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

Order of Selection

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

Transition 2 Go: VR

![Transition 2 Go in Florida](image)
Decision-Making Is
- Ability to recognize that a decision must be made
- Ability to identify existing options
- Ability to determine a course of action

Decision-Making Is ALSO
- Making a bad decision
  - Unhealthy
  - Not financially sound
- Completed with help of others
- Sometimes uninformed
Middle Adolescence: Decision-Making

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

How Decision-Making Capacity Develops

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

Gradual Release of Responsibility
Decision-Making Supports

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

Informal Support Network

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

Examples of Informal Supports

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

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

Physician Role: Health Care Surrogate Process

- Determine capacity
- Second opinion
- Comply with document

School Role: Health Care Surrogate Process

- Who
- What
- Where
- When
- How
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?

Guardianship - Defined

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

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
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

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

Guardianship Process

- File application
  - County probate court

- Student receives notice

- Judge makes determination

- Appoints guardian
Role of Physician in Guardianship Process

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

School Role in Guardianship Process

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

Potential Guardians

- Complete a separate application
  - Criminal background check
  - Financial history
- State guardians
- Providers as guardians
Guardian Advocate - Defined
- People with developmental/intellectual disabilities
- Disability MUST
  - Begin before age 18
  - Impair decision-making ability

Guardian Advocate - Process
- Similar to guardianship process
- No determination of competence
- Additional protections for wards
- Less costly

Transition 2 Go: Guardianship
Social Security Insurance - SSI

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

Social Security Disability Insurance - SSDI

- Medical and financial needs
- Disabled adults
  - Disabled after working OR
  - Disabled before age 22
- Monthly income benefit
- Medicare benefits
Eligibility After 18th Birthday

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

Booklet from Social Security

Disability Determination Services in Florida
Eligibility Determination Tools

- Parent interview
- Health care provider
- Teachers, day care providers, family members
- School records
- Medical records

Role of Provider in Social Security Determinations

Educator’s Role in Social Security Determinations

- Documents that may be required
- Testimony may be required
- Disability determinations require
  - Functional limitations
  - Deficits
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

Florida Algorithm
Use the Transition Plan

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

Social Services & Financial Discussions

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

Interactive Question

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

How can you prepare parents and students for these changes?
When You Are Concerned about Student’s Decision-Making Capacity...

Decision-Making Discussions with Parents
- Provide objective information
- Test out informal supports
- Discuss with student
- Maximize independence and self-determination

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
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

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

Transition Plan: Guardianship

- Find legal counsel or advice
- Complete assessment
- Gather documentation
- Complete court procedures
Who Can Support Educators?

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

Legal & Financial Aspects of Transition: Resources

Center for Supported Decision-Making
SSA.gov

Housing Resource Guide

Transportation
Key Points

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

Summary of Financial Tools

Summary of Legal Tools
Citations


