

Transfer of Rights – What Parents and Students Need to Know

Under North Dakota law people become adults when they reach their 18th birthday. That is called "legal age". This means they are no longer under the natural guardianship, or custody and supervision, of their parents. People who are 18 years old are responsible for making their own decisions. That includes decisions about school and the IEP.

The IDEA (Individuals with Disabilities Education Improvement Act 2004) states that students must be told about the decisions and choices to become their own educational guardian no later than one year before they reach the "age of majority" (at 17 years old).

If you receive special education services, a team has been planning your education each year (the IEP process). This team includes you, your parents, teachers, and others. Your parents have certain rights that affect your education. Some of these include rights to be told about what the school wants to do, to look at your school records, and to be involved in planning your education. When you become 18 years of age, these rights transfer from your parents to you. You are the decision maker about your education.

You need time to think about what you need and prefer, to talk with your parents, and to plan for the best decisions. At the IEP meeting during the year you become 17 years of age, the school people on your team must tell you and your parents about the choices.

What is Guardianship?

Sometimes students will continue to need guidance in making decisions in major life areas after high school. Someone who helps an adult make those life decisions is called a guardian. Major life decisions include; planning your education, deciding where to live, employment, money and finances, legal issues, and medical concerns. Guardianship can be limited or can include more than one major life area.

Guardianship is a legal process, and the decision to appoint a guardian is made by a judge. If you and your parents decide that a guardian may be needed to make decisions after you are age 18, your parents need to contact an attorney. The attorney will file a petition asking the court to name a guardian for you.

Usually your parents ask to be guardians. However, any adult who is capable and willing to have the responsibility may be a guardian. You and your guardian will continue to be involved in IEP meetings. The guardian will make educational decisions as part of the team.

What Does this Mean for You?

You can decide to become your own guardian and make all life decisions. This means that you:

- Will receive written notice of your IEP meetings and need to attend all meetings to plan your education;
- Have the right to include (or not include) your parents in the IEP meeting(s);
- Will receive your progress reports and not your parents or guardians;
- Have the right to review your educational records; and,
- Have the right to request mediation, file a complaint, or ask for a due process hearing if you disagree with decisions regarding your education.

Or, you may decide that your parents, or another adult, should be your guardian(s) after you have turned 18. If so, you need to do the following:

- Share the decision with your IEP team;
- Sign a form stating your understanding about the transfer of rights.
- Have your parents contact a lawyer to file guardianship papers in and,
- Continue to be involved in your IEP meetings. Your parent(s) as your guardians will also attend and assist you in making educational decisions based on the IEP team process.