

# Guardianship Options

for Young Adults with disAbilities,  
Their Families and Educators

This presentation has been developed and distributed  
by ASK Resource Center, Inc.



# To Do:

- Introductions
  - Responsibilities and Change
- Age of Majority – Transfer of Rights
- Decision Making – Level of Ability

...

- Guardianship
- Conservatorship
- Power of Attorney
- Voluntary Alternatives
- Non-voluntary Alternatives

*Life is all about choices*

# Choices



birdbee paralyzed by choice.



# Learning about options

A smart man makes a mistake, learns from it, and never makes it again. A wise man finds a smart (wo)man and learns how to avoid the mistake altogether.

Roy Williams  
(parentheses added)

• • •



## Important to remember ...

- **ALL** of the options involve legal action
- I don't know the answers, just places to get them!



# Go to Reference

[iddcouncil.idaction.org](http://iddcouncil.idaction.org)

- State Plan (tab at the top)
  - Publications
    - Guardianship/Conservatorship

• • •



**\*Legal Resources Handout\***



# Competency

- What is it?
  - **COMPETENT** means a person possesses the ability, strength, power and capability to carry out tasks with little or no assistance
  - The ability to make **safe decisions** independently must also be considered
- How is it established?
  - Competency determination is made in **court of law**
  - A family would **contact an attorney** to petition for guardianship.
  - Educators have no responsibility in this decision.
  - \* It would be inappropriate for any IEP team member, other than a student's parents, to have part in determining competency.



# Types of Petitions

**Voluntary** – means the proposed ward IS the petitioner and asks the court for an appointment

**Involuntary** – means someone other than proposed ward feels the ward needs assistance

## Types of Guardianship/Conservatorship:

- Limited
- Standby
- Public vs. Private



**\*NONE** can make decisions or limit the ward's freedom in areas where the court has not granted **specific authority\***

# Guardianship

One form of **substitute decision making**

A person (**GUARDIAN**) is appointed by a **COURT** to make non-financial decisions for another person (**WARD**)



• • •

- Where the ward will live
- Medical treatment
- Care or assistance decisions

# Conservatorship

- Another form of substitute decision making
- A person (**CONSERVATOR**) is appointed by a COURT, in a legal proceeding,
- to have custody and control of the property/estate (**MONEY**) of another person (**WARD**)





# Least Restrictive

Similar to LRE in educational settings with IEP's

**Least Restrictive Alternative** is one that allows a person to make as many decisions and be as independent as possible.

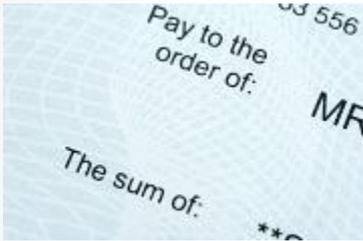
## Examples of Alternatives:

- Representative payees
- Joint bank accounts
- Advance directives for health care
- Financial powers of attorney



# Representative Payee

A person or agency **designated to receive benefit checks** on behalf of an individual with disabilities.



- **Responsible** for seeing that the money is used for the individual
- Accounting/records must be reviewed annually to prove how money was spent



# Power of Attorney

A **power of attorney (POA)** is a written document by which one person (the principal) gives another person (attorney-in-fact) the authority to manage all or part of his/her finances.

The attorney-in-fact may be granted one or all of the following:

- Open, maintain or close bank accounts
- Make financial investments
- Apply for benefits
- Prepare and file tax returns

See guidebook for complete list



# Resources

**Iowa Legal Aid**  
[iowalegalaid.org](http://iowalegalaid.org)

**Disability Rights Iowa**  
[disabilityrightsowa.org](http://disabilityrightsowa.org)

**Iowa Department of Education**  
[educateiowa.gov/pk-12/special-education/special-education-programs-services/secondary-transition](http://educateiowa.gov/pk-12/special-education/special-education-programs-services/secondary-transition)

**Governor's Developmental Disabilities Council**  
[iddcouncil.idaction.org](http://iddcouncil.idaction.org)



Access. Empowerment. Acceptance for All.

[askresource.org](http://askresource.org)

(800)450-8667

5665 Greendale Rd, Suite D,  
Johnston, IA 50131



The contents of this presentation and associated resources were developed partially under a grant from the US Department of Education, #H328M140017 – Project Officer, David Emenheiser; a grant from the US Department of Health and Human Services, #H84MC24065 – Project Officer LaQuanta Smalley; and a grant from the Iowa Department of Education. The contents of this presentation do not necessarily represent the policy of those Departments, and one should not assume endorsement by the Federal Government. ASK Resource Center is a member of the Parent to Parent USA Alliance, and also serves as Iowa's Family Voices State Affiliate Organization.