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

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

Life is all about 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

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

*Legal Resources Handout*
Competency

• What is it?
  o COMPETENT means a person possesses the ability, strength, power and capability to carry out tasks with little or no assistance
  o The ability to make safe decisions independently must also be considered

• How is it established?
  o Competency determination is made in court of law
  o A family would contact an attorney to petition for guardianship.
  o 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

Disability Rights Iowa
disabilityrightsiowa.org

Iowa Department of Education
educateiowa.gov/pk-12/special-education/special-education-programs-services/secondary-transition

Governor’s Developmental Disabilities Council
iddcouncil.idaction.org

askresource.org
(800)450-8667
5665 Greendale Rd, Suite D,
Johnston, IA 50131

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