

A PEATC

Do You Know....



Fact Sheet for Virginia's Parents Decision-Making Options for Young Adults with Disabilities

My Child is Turning 18. What do I do?

Turning 18 is a big deal. Your child becomes an adult at 18 and all the privileges and responsibilities of adulthood transfer to them. This includes the authority to make decisions for themselves. This is a good thing. It is the gateway to adult life. But it can also be a scary time if you and/or your child believe they are not ready or able to make their own decisions. Thankfully, there are options available.

Everyone needs some help making decisions. Some people may ask others their opinion on whether to take a job, or they may have someone who helps them with their taxes or understand a contract. But some people with disabilities may need more or different kinds of supports. They may need help in making important decisions or if they have a significant mental or cognitive disability, they may need someone to make decisions on their behalf. For example, individuals with significant intellectual disabilities or dementia may need a substitute decision-maker.

It is best to use the least restrictive option available to you and your adult child if they need help making decisions. That way your child's rights as an adult will be preserved.

Here are important options from **LEAST RESTRICTIVE** to **MOST RESTRICTIVE**.

Supported Decision-Making Agreement

Powers of Attorney

Guardianship/Conservatorship

Resources

[Arc of NoVA - Thinking-about-Guardianship-checklist](#)

[DBHDS -Supported Decision-Making & Supported Decision-Making Agreements](#)

[Parent Center Hub Parent Guide to Getting Ready for the Age of Majority:](#)

[P2P USA - Supported Decision-Making & Alternatives to Guardianship](#)

[PEATC Resources on Supported Decision-Making](#)

[Sample Powers of Attorney](#)

[Va Courts - Decision-Making Options](#)

[VDOE Transfer of Rights for Students with Disabilities](#)

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Fact Sheet for Virginia's Parents

Supported Decision-Making Agreements (SDMAs)

The person with the disability enters into an agreement with supporters they choose. It can be a written plan and is changed as needed. There is no court process involved. A Supported Decision-Making Agreement can cover health, finance, education, employment, housing, and more. The person and their supporters talk about the types and levels of supports needed. Supporters help inform the individual, ask questions, and go over options, but the individual with the disability makes the decisions and maintains their rights. The Department of Behavioral Health and Developmental Services (DBHDS) has developed an SDMA template.

Powers of Attorney (POA)

Powers of Attorney are a form of supported decision-making. Under a POA, the person with a disability authorizes another individual (parent, spouse, friend) to make decisions on their behalf in certain circumstances. There are educational POAs, healthcare POAs, financial POAs, and general POAs which are more global in their authority. Some POAs are in effect all the time; other POAs only go into effect if the person becomes incapable of making the decision (e.g., they were in a car accident and are not conscious.) For a POA to be legal, the person with a disability must be competent to sign it. This means they must know what they are signing and understand the authority they are granting under the POA.

Guardianship/Conservatorship

Guardianships and conservatorships are the most restrictive options. The individual with a disability is determined incapacitated (unable to make their own decisions) by a court and a guardian is appointed to make decisions on their behalf. There are full (**plenary guardianships**) in which the guardian makes all decisions, even up to the food the person can eat, the people they can see, where they live, etc. There are also **limited guardianships** in which a guardian is appointed for specific areas such as health care decisions. Under full guardianship, the individual is likely to **lose their civil rights**, such as the right to vote, the right to enter contracts, and the right to marry. Some people with significant disabilities need guardianship, but it is a decision that should be entered into carefully. It can be expensive and difficult to reverse. Virginia law requires that alternatives be explored first. **Conservatorships** are a separate court proceeding in Virginia. In this process, the court appoints a conservator to manage the financial affairs of the incapacitated individual.

EDUCATIONAL REPRESENTATIVE

An **educational representative** is a competent adult authorized to make educational decisions on behalf of an adult student that is determined to **NOT be competent** to make their own educational decisions.

It requires an evaluation of the student done by non-school personnel to ensure that the student is in fact incompetent to make educational decisions. The **Virginia Department of Education** set up this process to help families who want to stay involved in their child's education after they turn 18, but do not want to or are not able to pursue other decision-making options.

The representative **can only make educational decisions** and the other rights of the adult student are maintained. The process does not require a court appearance.

PEATC's mission focuses on building positive futures for Virginia's children by working collaboratively with families, schools, and communities to improve opportunities for excellence in education and success in school and community life.



The contents of this factsheet were developed under a grant from the US Department of Education, #H235F200001. However, those contents do not necessarily represent the policy of the US Department of Education, and you should not assume endorsement by the Federal Government Project Officer. PEATC is not a legal services agency and cannot provide legal advice or legal representation. Any information contained in this training is not intended as legal advice and should not be used as a substitution for legal advice.

