

TRANSITION SERVICES FOR OUR STUDENTS WITH DISABILITIES WHO ATTEND FRANKLIN COUNTY PUBLIC SCHOOLS

TRANSITION FROM EARLY CHILDHOOD SPECIAL EDUCATION (ECSE) TO KINDERGARTEN:

Ongoing:

- ECSE teachers practice with children eating in the cafeteria to gain “cafeteria skills”
- IEP team develops Individual Education Plans to involve students with disabilities opportunities for inclusion with their non-disabled peers as deemed appropriate for the students

January/February:

- ECSE teacher completes a checklist evaluating the student’s abilities and does an observation of the student in a general education setting to assist in the decision of the proper placement for the following year.
- ECSE teachers will involve their transitioning students in participation in regular education classes at the school where the ECSE program is held to assist in exposing the transitioning students to the expectations of the general education class.

February/March:

- Notify receiving school (special education teacher, general education teacher, & principal) of possible students with disabilities attending their school in the fall
- Child attends kindergarten registration of home school with family teacher (spring prior to attendance)

April/May:

- Prior to the IEP meeting, the receiving special and general education teachers will have the opportunity to visit the ECSE classroom.
- IEP meetings at receiving school for the upcoming school year that include the receiving special education teacher, general education teacher, and principal will be held. A tour of the school may be provided at this time.
- Elementary and Transition Coordinators will attend IEP team meetings for students transitioning to the Elementary Schools when invited by the ECSE staff.

- At the IEP meeting, information and a discussion of attendance at Kinder-camp in the home school over the summer will be provided to the parent

Summer:

- Students and Parents will be invited to attend Kindergarten Orientation at their respective schools.

TRANSITION PROCEDURES FROM ELEMENTARY TO MIDDLE SCHOOL:

November/December:

- Begin discussions with principals, coordinators and teachers about needs of rising students with disabilities who will be 6th graders during the upcoming school year. All parties are contacted via e-mail and discussions initiated. Needs discussed include furniture, equipment, instruction, assistive technology and related services. Check with Parent Resource Center for possible resources.
- Concerned parents are invited/encouraged to visit/call 6th grade Coordinator at Benjamin Franklin Middle School (BFMS) to begin the transition process. The Franklin County Transition Coordinator may be involved in this as necessary.

December/January:

- Parent, student and case manager visits/calls continue with discussions of concerns and possible strategies.

February/March:

- All 5th Grade Special Education teachers will attend an informational session to familiarize themselves with BFMS policies and procedures and will be able to have specific questions answered about their student's future needs and services.
- Visits for students who are identified ID or MD are planned to begin in April and May. Elementary and middle school teachers coordinate these weekly visits to aid in the transition process and to relieve anxiety for students and parents.
- Multiple Elementary Visitations are arranged for all rising 6th graders. These night time "meet and greet sessions" are arranged for each Elementary School and allow parents and students to orient themselves to the Middle School environment.

April/May:

- Visits/calls continue; 6th grade and Transition Coordinators attend IEP Meetings at Elementary schools upon request.

June/July:

- 6th grade Coordinator contacts each parent of a student with a disability via a letter to confirm logistical information, student needs, parent concerns and to organize a Back to School Night prior to the beginning of school.
- Parents may contact the 6th grade Coordinator and arrange for a visit of the classrooms, to get a copy of their child's schedule and tour the school.

TRANSITION OF STUDENTS FROM BFMS EAST TO THE GEREAU CENTER FOR 8TH GRADE

January-March: Communication between special education teacher at BFMS East and The Gereau Center to discuss rising 8th graders' needs and any specific concerns

March: The Gereau Center special education teacher visits the BFMS East classroom for ½ day to observe rising 8th graders

April 7, 2011: During Conference Night, rising 8th grade parents and their children are invited to visit The Gereau Center and meet with special education teacher there

April/May: Communication between BFMS East and The Gereau Center special education teachers will continue in order to help facilitate the development of appropriate IEPs for the rising 8th grade students with disabilities.

By the end of May: Rising 8th grade students will visit The Gereau Center where they will receive a tour of the building, meet key personnel, and eat lunch in The Commons with current 8th grade students. (Both special education teachers work together to plan the event along with the assistance of the transition coordinator as needed.)

EIGHTH GRADE TRANSITION TO THE HIGH SCHOOL:

Early March: Any new 8th grade case managers will visit the high school for ½ day to observe various academies and electives to assist them in their suggestions for class registration and the writing of IEPs

Mid March: Case managers gather information from general education teachers to assist with the planning of each student's future classes and the development of IEPs

By end of March:

- Each 8th grader will have completed a vocational assessment to assist in registration of classes for next year. Focus will be on the use of VAView.

- Each case manager will meet with students on their caseload and will fill out a recommendation form for various classes in the 9th grade. Input from general ed. teachers will be obtained prior to meeting with each student. The recommendation form will be used on the day of actual registration.
- Informational Meeting for parents of students with disabilities- High school guidance counselors, special education coordinators, transition coordinator, and/or special education teachers present information on high school schedule and how certain classes connect with the IEP

By end of April: Each 8th grader will have registered for 9th grade classes after a conference with their case manager, coordinator, and/or a staff member from the high school. All 8th grade students will have the opportunity to see the presentation made by the 9th grade guidance personnel prior to registering.

By the end of May: Select 8th grade students will visit and tour Franklin County High School during the school day.

- If a parent is concerned about transition to the high school, a suggestion will be made to contact the High School Special Education Administrator and/or Coordinator to schedule a visit during the summer months.

TRANSITION PROCEDURES FROM LIFE'S ACADEMY TO HOME SCHOOLS:

Procedures may be initiated at any point in the year.

- Discussion begins with the student, parent, Life's Academy teacher, Life's Academy coordinator, transition coordinator, school psychologist, and appropriate special education coordinator when transition is being considered. Discussion may be initiated by any member of the team.
- Discussion continues with the receiving school's principal. This may be initiated by Life's Academy coordinator, the special education coordinator, or school psychologist.
- An observation of the receiving school and possible teachers for the student is conducted by staff from Life's Academy, the special education coordinator, or the transition coordinator.
- A plan for transition is developed by the IEP team. This plan is not necessarily written into the student's IEP.

- The student, select Life’s Academy staff and/or the transition coordinator visit the receiving school for a tour and introductions prior to implementation of the plan.

Transition Services for Franklin County Students (Transition services begin at age 14)

According to IDEA 2004, “transition services” means a coordinated set of activities for a student with a disability that is designed to be within a results-oriented process which is focused on improving the academic and functional achievement of that student. This process should have as its goal to facilitate the student’s moving from high school to post-secondary activities which may include education, integrated employment (may also include supported employment); continuing adult education; adult services; independent living and/or community participation. This transition would be based on the individual student’s needs, taking into account the student’s strengths, preferences, interests and includes instruction, related services, community experiences, the development of employment and other post-secondary adult living objectives and if appropriate, acquisition of daily living skills and a functional vocational evaluation.

VDOE Transition Requirements- measures the success of transition for each school division through the State Performance Plan Indicators 13 and 14

- Indicator 13- Provides the percent of students age 14 and above with an IEP that includes coordinated, measurable, annual goals and transition services that will reasonably enable the student to meet his/her post-secondary goals
- Indicator 14- Provides follow-up information on those students who were under an IEP and are no longer attending high school; have been competitively employed, enrolled in some type of secondary school or both within one year after leaving high school

Components of Successful Transition:

Self Determination has research-based data to support its being an important component to better post school outcomes for students with disabilities in the following areas:

- Self-awareness- identifies and understands interests, strengths, limitations, personal values
- Self-advocacy- pursues and obtains personal wants and needs
- Decision-making- consider options; choose best options; develop plan

Assessment: Each student should be assessed in the following areas:

- Interests
- Skills
- Independent living skills
- Academics
- Strengths & Weaknesses

Programming: Each student’s IEP should reflect a **course of study** that will reasonably enable him/her to meet their post-secondary goals

Self determination by grade levels:

Elementary	Middle	High School
<ul style="list-style-type: none"> • Students participate in lessons that help them understand their disability. Students develop notebooks called “All About Me” that help them describe their strengths, weaknesses and preferences. • Students are allowed and encouraged to participate in their IEPs by constructing Power Points, posters, or videos to be presented at their IEP meetings. • Many of our elementary schools provide the students with the opportunity to participate in student led parent conferences. 	<ul style="list-style-type: none"> • Students continue to participate in lessons developed to strengthen their knowledge of their disability. • Students are encouraged and expected to participate in their IEPs. • Students begin to develop portfolios that will follow them through high school and can be used post secondary. • Students continue to work on goal setting, choice making and practicing self advocacy. 	<ul style="list-style-type: none"> • Students participate in the development of their IEPs. • Students continue to work on goal setting, choice making and self advocacy. • Students continue to add to their portfolios. • In their Senior year, students are encouraged to help write their Summary of Performance. • Students have the opportunity to serve in leadership positions at the local and state level.

Assessment by grade level:

Elementary School	Middle School	High School
<ul style="list-style-type: none"> • Students are assessed continually for academic achievement through standardized tests and/or teacher made tests. • Every report card reflects the students’ growth in 	<ul style="list-style-type: none"> • Students are continually assessed for academic achievement through standardized tests and/or teacher made tests. • Students participate in career exploration through 	<ul style="list-style-type: none"> • Formal career assessment begins in the 9th grade with the use of standardized and/or other commercially developed assessment instruments. • Students are continually

<p>independent living skills and behavior.</p>	<p>course work that helps them determine interests, skills and preferences.</p> <ul style="list-style-type: none"> • Each teacher of a career module at The Gereau Center is asked to provide an evaluation of each 8th grade student's career interests and skills in that particular module for use in determining a course of study for high school. 	<p>assessed in their academic and independent living skills through the use of standardized or commercially purchased instruments.</p> <ul style="list-style-type: none"> • Select students in their junior year are provided a career assessment by the Department of Rehabilitative Services.
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Programming by grade:

Elementary School	Middle School	High School
<ul style="list-style-type: none"> • IEPs are developed that provide for instruction in all academic areas with emphasis placed on areas of concern. • Instruction is also included in life skills, recreation/leisure, and vocational skills. • Emphasis is placed on Self Esteem, Communication and Study Skills, Time Management, Goal Setting, Conflict Resolution, and Honor and Responsibility. 	<ul style="list-style-type: none"> • IEPs are developed that provide for instruction in all academic areas with emphasis placed on areas of concern. • Instruction is also provided in Career Education • Students have the opportunity to pursue interests and preferences through course selection. • Students have the opportunity to participate in extracurricular activities that foster leadership, social skills as well as provide opportunities to develop decision making skills. 	<ul style="list-style-type: none"> • IEPs are developed that are based on students' individual strengths, interests, preferences and academic concerns • As appropriate, students participate in community based classes that offer the opportunity to work on independent living skills, social skills, and job readiness. • When appropriate, students are enrolled in technical classes that provide instruction in areas of vocational interest. • Throughout their high school career, students are given the opportunity to participate in job shadowing, job readiness, on the job training, and cooperative work experience. • When appropriate students may be placed on a job with assistance from a job coach or participate in a half day work adjustment program at Goodwill. • In the senior year, a summary of performance is developed on each child outlining the student's present level of performance as well as their postsecondary goals in employment, training, and/or independent living.

NOTES:

Franklin County Public Schools has a Transition Coordinator who serves to ensure that each child with a disability receives transition services from Early Childhood Special Education through Grade 12. This Coordinator has the responsibility to provide the appropriate training to staff, to assist all staff in understanding the student's needs in the area of transition, and to assist them in their responsibility to carry out what is needed for the students.

Franklin County Public Schools has a Transition Team that consists of agency representatives that meet once a month. At anytime during their academic career, the student can be referred. The objective of the referral is to ensure that the student and parents have the necessary information to be able to make knowledgeable decisions about the use of agency resources while the student is still in school or to help achieve their post secondary goals.

POSSIBLE TRANSITION TEAM MEMBERS:

- Transition Coordinator for Franklin County Public Schools
- DRS (Department of Rehabilitation Services)
- Social Security Services
- Piedmont Community Services
- Franklin County Social Services
- Colleges (if student is enrolling in college)
- Goodwill Services
- Work Force Investment
- Parents
- School Representative (principal, teacher, and a representative from the Department of Pupil Personnel Services)
- Other agencies-dependng on the interests and needs of the student

Transfer Of Rights For Students with Disabilities Upon Reaching The Age Of Majority In Virginia

August 2004

Virginia Department of Education
Office of Special Education and Student Services
PO Box 2120
Richmond, Virginia 23218-2120

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Introduction

This document contains information about the transfer of parental rights in special education that occurs when a student with a disability reaches the age of majority. The age of majority in Virginia is 18. The purpose of this document is to provide schools, students, parents, and families with useful information about who may make educational decisions after a student has reached the age of 18. Initially, the student and parent or parents are notified, one year prior to the student's eighteenth birthday, that the transfer of rights will occur at age 18 and efforts are made to provide a full explanation of the applicable procedural safeguards to the student. School divisions, by law, respect the educational decisions of every adult student, unless that person has been determined to be incapable of making decisions. There are three options schools shall recognize for determination of the student's ability to make educational decisions addressed in this document. The Department of Education wishes to extend a special thank you to the following individuals who assisted with the development of these materials:

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Students and the Right to Make Educational Decisions

From a student's first day of school until the completion of his or her education, hundreds, possibly thousands, of educational decisions will have been made for or by that student. Until a student reaches the age of 18 (also called the "age of majority"), most of those decisions are made by parents, family members, and/or guardians in consultation with teachers or education officials. The right of a parent, or surrogate parent¹, to make educational decisions for a child is a very important part of the educational process. Therefore, Virginia law protects the rights of parents to make decisions in the best interests of their children, including educational decisions.

However, when a student reaches the age of 18, that adult student is presumed under Virginia law to be capable of making his or her own decisions - including educational decisions. That does not mean that parents cannot continue to be involved in their children's education. It just means that, by law, schools respect the educational decisions of every adult student, unless that person has been determined to be incapable of making decisions.

What does it mean to be "capable of making your own decisions?"

Generally, in Virginia it is presumed that all persons who have reached the age of 18 are fully capable of making their own decisions, and are responsible for their own actions. This presumption comes from Virginia laws and statutes, not from the Virginia Department of Education, local school boards, or teachers. The right of a student to make individual educational decisions begins when a student reaches the age of 18, just as the right to vote begins. However, the presumption that adult students are capable of making their own decisions does not mean that adult students are required to change their educational program, or disregard the advice of family, teachers, or people on whom they have always relied.

What about students with special needs, or students who have a condition or illness which might impair their ability to make informed educational decisions?

The law presumes that all students are capable of making their own decisions. However, the right to make educational decisions may be transferred from an adult student to a parent, guardian, family member, or some other person, if it is sufficiently proven that the adult student is *not capable of providing informed consent* when making decisions. A parent, guardian, family member, or some other person may be appointed to make educational decisions for an *incapacitated* adult student or for an adult student who is deemed *unable or incapable of providing informed consent*, under certain circumstances. (Note: An incapacitated person is a person determined by a court who,

¹ "Surrogate parent" means a person appointed in accordance with procedures set forth in the Special Education Regulations to provide children who are in legal or physical custody of the state, or whose parents are not known or are unavailable, with the protection of procedural safeguards.

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because of a mental or physical illness or condition, is not capable of taking care of himself or herself, or his or her affairs. For purposes of this discussion, any person who has been declared by a court to be legally incompetent should be interpreted to be incapacitated).

The Virginia Department of Education recognizes three ways for a parent, family member, or other person to be appointed to make educational decisions on behalf of an adult student. They are as follows:

1. The parent requests being a court-appointed guardian and is given authority to make educational decisions at a guardianship hearing before a judge;
2. The parent assists the adult student to appoint or designate, in writing, a competent adult of his or her choice to make educational decisions through a power of attorney, signed and executed by the adult student and a Notary Public. (See the sample Power of Attorney form);
3. The parent or other competent adult pursues certification that the adult special education student is unable or incapable of providing informed consent in making educational decisions and is considered by the school division to be the “educational representative” to make educational decisions for the student. (See the sample Certification Form of the Inability of a Student to Provide Informed Consent for Education Decisions).

What is adult guardianship?

A guardian is a person appointed by a court who is responsible for the personal affairs of an incapacitated person (called a “ward”), and for making decisions for that ward. Guardianship may be awarded for the purpose of making only limited decisions (such as education decisions only, or medical decisions only) or it may be a full guardianship covering all personal affairs. (*Note:* Guardians appointed after January 1, 1998, do not have the right to handle the financial affairs of a ward. A conservator is the person authorized by a court to handle the financial affairs of a ward. In many cases, however, the court will name the same person to serve as both the guardian and the conservator for the ward). Some of the main disadvantages of the guardianship and conservatorship proceedings are that they often are time-consuming, costly, and may be open to the public. All such proceedings involve at least one judge and at least one lawyer. If you have questions about guardianship or conservatorship, please contact a lawyer or the Virginia Guardianship Association² for more information.

What is power of attorney?

²
Virginia Guardianship Association
2304 Wedgewood Avenue
Richmond VA 23228

Phone: (804) 261-4046

The power of attorney is a written document by which one competent adult (the student, in our case) grants authority to another competent adult (a parent, family member or friend) the authority to act and make decisions on his or her behalf. Since adult students are presumed competent under Virginia law, the power of attorney may be an important tool for many students, parents, and families. It is important that students, parents, families, and educators all understand that competent adult students may revoke or change a power of attorney at any time, as long as they are still competent. Sample forms for a power of attorney for educational decisions only have been prepared by the Virginia Department of Education as a guidance tool for students, their parents, guardians, and/or families. Be aware that the power of attorney may be used by competent adults to give various powers to other competent adults. Be sure to seek legal advice to address further questions or concerns about the use of any power of attorney.

How do I go about having an “educational representative” appointed for a special education student who is 18 years old or is about to become 18?

As was mentioned earlier, any adult special education student who has been certified to be unable or incapable of providing informed consent with regard to his or her educational decisions, may have an “educational representative” appointed to make those decisions. The option of having an educational representative appointed without having to appear in court (as would be required in a guardianship or conservatorship case) was developed by the Virginia Department of Education in accordance with federal and state laws. This was done to ease the burden placed on parents and families, while protecting the individual rights of the adult student. An education representative can be a parent, family member, or other competent adult. Before a special education student can have an educational representative appointed, the student must be evaluated and determined to be “unable or incapable of providing informed consent for educational decisions made under the Individuals with Disabilities Education Act.” The procedure included specifies who must certify that a special education student is incapable of providing informed consent. The process of having an educational representative appointed is much easier and less expensive than a guardianship proceeding. However, remember that an educational representative is authorized to make educational decisions only. The educational representative is not given any authority to make other decisions on behalf of an adult student.

What other legal concerns should students and parents be aware of?

Families may face many changes and new issues as children approach the age of majority. Many of the issues can be confusing and overwhelming, especially if the child who is approaching age 18 is a special education student. As part of ongoing efforts to assist families, the Virginia Department of Education provides the following brief answers to questions frequently asked by people who care for special education students.

What is a “representative payee”, and does my child need one?

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If a student receives income from Social Security, Supplemental Security Income (SSI), or the Veterans Administration, then a representative payee may be appointed to receive and manage the funds for that student. When students reach the age of 18, they must have a representative payee appointed to receive benefits on their behalf, if the funds are being received due to that student's disability. The person appointed to manage the funds of the disabled person will be responsible for seeing that funds are properly spent to meet the need of the disabled student. A periodic accounting must be made by the representative payee to the Social Security Administration. Additional information, and all required forms, should be available at any local Social Security office.

The management of federal benefits on behalf of someone over 18, such as Social Security, SSI, and Veterans Administration benefits, is delegated only to a representative payee. The power of attorney executed by the disabled person does not remove the need for a representative payee. The federal government will not recognize the right of the person holding the power of attorney to receive funds for the benefit of a disabled person unless that person is also named as representative payee.

What are advance medical directives?

Advance medical directives are the documents most often used for making personal choices in health related matters. The two most common types of advance medical directives are the living will and the health care power of attorney. A competent adult must execute a legally binding advance medical directive. (Living will and health care power of attorney forms are often combined to make one form, commonly known as the advance medical directive. Sample advance medical directives are available at local health departments, hospitals, and nursing homes.)

A living will (also known as a health care declaration) is a written statement in which an adult states his or her desires regarding the use of life-prolonging medical care, should he or she become terminally ill and unable to communicate. A living will helps ensure that an individual's wishes and desires are known by family members, guardians, physicians, and health care providers.

A health care power of attorney allows an adult to appoint another competent adult (known as the "health care agent") to make any and all health care decisions on his or her behalf. Language may be included that gives the named health care agent the right to make medical decisions, only if the person is unable to make those decisions. A health care power of attorney often reduces the chance of conflict or confusion between family members, friends and health care providers.

What is a trust?

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A trust is an arrangement by which assets are held by one person (known as the “trustee”) for the benefit of another person (known as the “beneficiary”). The trustee is responsible for ensuring that money, or any other asset, from the trust is used appropriately and for the benefit of the beneficiary. Trusts may have an impact on a person’s continuing or future eligibility for public benefits, such as Social Security Income or Medicaid, and may have important tax implications. For these reasons, a trust agreement should be drafted with the help of any attorney.

**Procedure for Transfer of Rights to Students Who
Reach the Age of Majority**

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I. A student who has reached the age of 18 years shall be presumed to be a competent adult, and thus all rights under the Individuals with Disabilities Education Act shall transfer to the adult student unless one of the following actions has been taken:

A. The adult student has been declared legally incompetent or legally incapacitated by a court of competent jurisdiction and a representative has been appointed by the court to make decisions for the student.

B. The adult student designates, in writing, another competent adult to be the student's agent to receive notices and to participate in meetings and all other procedures related to the student's educational program. A school division may rely on such a written designation until notified that the authority to act under the designation has been revoked, terminated, or superceded by court order or by the adult student.

C. The adult student has been certified, according to the following procedures, as unable to provide informed consent. Any competent adult student who has been found eligible for special education and does not have a representative appointed to make decisions on the adult student's behalf by a court of competent jurisdiction, may have an educational representative appointed based on the following certification procedure to act on the student's behalf for all rights accruing to the adult student under the Individuals with Disabilities Education Act (20 U.S.C. 1400, et seq.) and the exercise of rights related to the student's school record.

1. An educational representative may be appointed based on the following conditions and procedures:

a. Two professionals (one from list #1 and one from list #2) must, based on a personal examination or interview, certify in writing that the adult student is incapable of providing informed consent and has been informed of this decision:

(1) One of the following from list #1:

(a) A medical doctor licensed in the state where the doctor practices medicine;

(b) A physician's assistant whose certification is countersigned by a supervising physician;

(c) A certified nurse practitioner.

AND:

(2) One of the following from list #2:

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- (a) A medical doctor licensed in the state where the doctor practices medicine;
 - (b) A licensed clinical psychologist;
 - (c) A licensed clinical social worker;
 - (d) An attorney who is qualified to serve as guardian ad litem for adults under the rules of the Supreme Court of Virginia; or
 - (e) A court-appointed special advocate for the adult student.
- b. The individuals who provide the certification for the adult student may not be employees of the school division currently serving the adult student or be related by blood or marriage to the adult student.
 - c. *Incapable of providing informed consent*, as used in this procedure, means that the individual is:
 - (1) Unable to understand the nature, extent, and probable consequences of a proposed educational program or option, on a continuing or consistent basis; and/or
 - (2) Unable to make a rational evaluation of the benefits or disadvantages of a proposed educational decision or program as compared with the benefits or disadvantages of another proposed educational decision or program, on a continuing or consistent basis; or
 - (3) Unable to communicate such understanding in any meaningful way.
 - d. The certification that the adult student is incapable of providing informed consent may be made as early as 60 days prior to the adult student=s eighteenth birthday or 65 business days prior to an eligibility meeting, if the adult student is undergoing initial eligibility for special education services.
 - e. The certification shall state when and how often a review of the adult student=s ability to provide informed consent shall be made and state why that time period was chosen.

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- f. The adult student's ability to provide informed consent must be recertified at any time that the previous certifications are challenged. Challenges can be made by the student or by anyone with a bonafide interest and knowledge of the adult student. Challenges must be provided in writing to the local educational agency's director of special education who then must notify the adult student and current appointed representative. Upon receipt of a written challenge to the certification by the adult student, the local educational agency may not rely on an educational representative appointed pursuant to the certification for any purpose. The only action that can supercede the adult student's challenge to the certification process is a designated educational representative affirmed by a court of competent jurisdiction (guardianship).
 - g. Upon receipt of a written challenge to the certification by anyone with a bonafide interest and knowledge of the adult student, the local educational agency may not rely on an educational representative appointed pursuant to this procedure for any purpose until a more current written certification is provided by the appointed educational representative.
 - h. Certifications provided after a challenge are effective for sixty days, unless a proceeding in a court of competent jurisdiction is filed challenging and requesting review of the certifications. The local educational agency shall not rely upon the designated educational representative until the representative is affirmed by the court.
2. Upon receiving the written certification of the adult student's inability to provide informed consent, the local educational agency shall designate the parent or parents of the adult student to act as an educational representative of the adult student (unless the student is married, in which event the student's adult spouse shall be designated as educational representative). If the parent or adult spouse is not available or competent to give informed consent, the individual designated by the local education agency shall designate a competent individual from among the following:
- a. An adult brother or sister; or
 - b. An adult aunt or uncle; or
 - c. A grandparent.

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- d. If no one from the previous categories is willing and able to serve as the adult student's educational representative, then an individual (who is not an employee of the local educational agency) shall be designated to serve in this capacity (by the local educational agency).

II. Notification

- A. The local educational agency shall notify the parent or parents and the student of the following:
 1. That educational rights under the Individual's with Disabilities Education Act (20 USC 1400 et seq.) will transfer from the parent or parents to the student upon the student reaching the age of majority. Such notification must be given at least one year prior to the student's eighteenth birthday.
 2. The procedures for appointing the parent, or, if the parent or parents are not available, another appropriate individual, to represent the educational interests of the student throughout the student's eligibility for special education and related services if that individual is determined not to have the ability to provide informed consent with respect to the educational program as specified in subsection I.
 - B. The local educational agency shall include a statement on the Individualized Education Program (IEP) (beginning at least one year before the student reaches the age of majority) that the student has been informed of the rights that will transfer to the student on reaching the age of 18.
 - C. The local educational agency shall provide any further notices required under the Individuals with Disabilities Education Act (20 USC 1400 et seq.) to both the student and the parent or parents. The local educational agency may continue to invite the parent or parents, as bonafide interested parties knowledgeable of the student's abilities, to participate in meetings where decisions are being made regarding their adult student's educational program.
 - D. The adult student may invite his or her parent or parents to participate in meetings where decisions are being made regarding the student's educational program.
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III. All rights accorded to the parent or parents under the Individuals with Disabilities Education Act (20 USC 1400 et seq.) transfer to individuals when they reach the age of majority (18) who are incarcerated in an adult or juvenile federal, state, or local correctional institution.

***Sample Notice of Transfer of Rights to Students with Disabilities
Who Reach the Age of Majority***

Transfer of Rights at the Age of Majority 13 10/4/2004

[School Division Name]
[School Division Address]
[School Division Phone]

**Notice of Transfer of Rights to Students with Disabilities Who Reach
the Age of Majority**

Student: _____ School: _____

Date: _____

Dear Parent(s)/Guardian(s) and Student;

This letter is to inform you that according to federal special education regulations, when students with disabilities who are receiving special education and related services reach the age of majority (age 18 in Virginia), the Parental Rights in Special Education transfer to the student. This means that the student has full access to the school record and makes the final decision in all matters related to special education including the contents of the Individualized Education Program (IEP). The student is required to sign permission for placement where the parent has formerly been the person granting this permission.

In situations where a student or parent believes that the student will be unable to make an informed consent decision, there are procedures that permit the parent to continue to represent the student in the special education process. Materials explaining the possible options available to parents have been enclosed for your convenience. For further assistance in this matter, please contact the principal of your school, the student=s special education teacher, or the student=s guidance counselor.

Sincerely,

Principal (or Designee)
School Telephone # _____

***Sample Specific Power Of Attorney For Educational Decisions Made
Under The Individuals With Disabilities Education Act***

Transfer of Rights at the Age of Majority 14 10/4/2004

This is a suggested form developed by the Virginia Department of Education regarding the specific power of attorney for the designation of an agent to act on behalf of students who have reached the age of eighteen (18) and who have not been determined to be legally incompetent or incapacitated. This power of attorney is specific to educational rights under the Individuals with Disabilities Education Act. When completed, executed, and notarized by the adult student, it becomes legally binding unless and until the powers granted by the student are revoked by the student, or until the specific power of attorney is revoked by a court, or upon the death of a student. When changes are appropriate, they should be made. If this form is not understood, legal advice should be obtained from an attorney before the form is signed. School officials are not authorized to give legal advice, and the decision to seek legal advice rests solely with the adult student.

**SPECIFIC POWER OF ATTORNEY
FOR EDUCATIONAL DECISIONS MADE UNDER THE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT**

KNOW ALL PERSONS BY THESE PRESENTS:

That I, _____ (full name), residing at _____
_____ (full address), and born on _____ (month, date, year),
hereby make, constitute, and appoint _____ (full name) of
_____ (full address), as my lawful attorney-in-
fact to act in my name, place and stead, make all educational decision on my behalf, act and legally bind
me to any and all educational decisions and/or programs, including, but not limited to, the following
hereinafter described:

(initial) _____ receive notice of all meetings and actions proposed or refused pertinent to my special
education program

(initial) _____ participate in all meetings pertinent to my special education program

(initial) _____ request legal due process proceedings if a disagreement regarding my special education
program arises

(initial) _____ represent my interests in mediation to resolve disputes with the local school division

(initial) _____ agree or disagree with proposed Individualized Education Programs and special education
placements

(initial) _____ Other _____

as I would, might or could do if acting personally. I hereby ratify and confirm all lawful acts done by said
attorney-in-fact in accordance with this specific power of attorney. This specific power of attorney shall
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not terminate upon me becoming disabled, incompetent, or incapacitated, and all power and authority granted hereunder to said attorney-in-fact shall continue and be exercisable by said attorney-in-fact notwithstanding that I may subsequently become disabled, incompetent, or incapacitated, and all acts done by said attorney-in-fact pursuant to this specific power of attorney during the period of any such disability, incompetence, or incapacity, shall have in all respects the same effect and shall inure to the benefits and bind me and my estate as fully as if I were not subject to such disability, incompetence, or incapacity, and all power and authority granted hereunder shall remain in full force and effect until such time as such power and authority granted hereunder shall be revoked by me in writing.

Plural shall be substituted for the singular and singular for the plural wherever the context hereof so requires.

WITNESS the following signatures on this _____ day of _____, _____.

Student
COMMONWEALTH OF VIRGINIA }
} To Wit:
CITY/COUNTY OF _____ }

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, in the Commonwealth of Virginia, do hereby certify that _____ (student), whose name is signed to the foregoing Specific Power of Attorney, has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand this _____ day of _____, _____ -/

(Notary Public)

My Commission expires: _____

NOTE: This form, with original signatures, must be filed with the student=s school record and with the Director of Special Education for the school division before an attorney-in-fact can be recognized by the local school division. For the local school division to recognize any changes or revocations, written notification to the Director of Special Education must be provided of those changes or revocations. Such notification must be dated and witnessed.

Transfer of Rights at the Age of Majority 16 10/4/2004

Sample Certification Form of the Inability of a Student to Provide Informed Consent for Education Decisions made under the Individuals with Disabilities Education Act

This is a suggested form developed by the Virginia Department of Education regarding the certification process for the designation of a parent or other competent adult, to act on behalf of students who have reached the age of 18 and who have not been determined to be legally incompetent or incapacitated only. This certification is specific to educational rights under the Individuals with Disabilities Education Act. Local educational agencies are not responsible for any costs associated with securing documentation for purposes of this certification.

Certification Form of the Inability of a Student to Provide Informed Consent for Educational Decisions Made Under the Individuals with Disabilities Education Act

Please provide the following information:

1. Name of the student being evaluated: _____;
2. Name of the competency evaluator personally evaluating the Student:
_____;

3. Professional degree or license that entitles the competency evaluator to make this determination: (Circle One - See attached *Transfer of Rights to Students Who Reach the Age of Majority*, for additional information and requirement of specific professionals)

- Medical Doctor Physician's Assistant Certified Nurse Practitioner
- Licensed Clinical Psychologist Licensed Clinical Social Worker
- Guardian Ad Litem for the Adult Student Court Appointed Special Advocate

4. Has the competency evaluator, in the course of his/her professional duties, personally evaluated the person whose capacity is in question (the student)?

YES/NO (Circle One)

5. The student suffers from the following debilitating illness and/or conditions:

6. Due to the above-stated debilitating illness and/or conditions and related limitations of the student, it is my professional opinion that the student ***IS CAPABLE / IS NOT***

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CAPABLE of providing informed consent for educational decisions made under the Individuals with Disabilities Education Act; and

7. Due to the nature of the student's debilitating illness and/or conditions as stated in this document, it is my opinion that the ability of this student to provide informed consent for educational decisions should be reviewed on _____ (date) and thereafter every _____ years. (Fill in the blank with a number not exceeding three years. Re-evaluation should occur annually unless the condition that makes the student incapable of providing informed consent is either degenerative, irreversible or perpetual given the present state of medical science, as known by the Competency Evaluator)

I have read and understand all parts of the document, *Transfer of Rights to Students Who Reach the Age of Majority*, pertaining to informed consent for educational decisions made under the Individuals with Disabilities Education Act. I understand them and I have completed this evaluation form based on the guidelines set forth in the Procedure.

Signature of Competency Evaluator Date

Title of Competency Evaluator

Address of Competency Evaluator

Witness

Address of Witness

This is a suggested evaluation form for use in determining and certifying whether a student is capable of providing informed consent for purposes of making their own educational decisions after having reached the age of eighteen (18). When changes to this form are necessary, they should be made. If this form is not understood, advice should be sought from the appropriate professional(s) before it is completed. School officials and employees are not authorized to give legal or medical advice regarding this form, or the completion of this form.

Transfer of Rights at the Age of Majority 18 10/4/2004