

Ways to **Support** Your Adult Child

The **Age of Majority** is when a child becomes an adult in the eyes of the law. In North Carolina, that age is 18. Adults can legally make all kinds of decisions on their own. This includes taking on debts, signing contracts and making medical decisions. The Individuals with Disabilities Education Act (IDEA) requires that schools notify 17-year-old special education students and their parents that all of the rights that parents have under that law will transfer to the student when they turn 18. This rule is to give parents enough time to consider how they can provide the right amount of support to their young adult child. This fact sheet will briefly describe different ways to protect and support young adults who have a disability. It also gives you some things to think about when deciding which support options may be appropriate for your child.



Informal Natural Support

Most 18-year-olds, with and without disabilities, rely on their parents and family members to help them make major life decisions. The young adult can benefit from the wisdom of more experienced advisors who they trust. They can choose to sign a **consent for release of information** so that their advisors have access to information, and possibly the ability to communicate with others on their behalf. The student can also invite parents or other advisors to participate in their IEP meetings.

Think about...

A young adult can choose to not seek advice or ignore the advice that is given. If an adult student and their advisor disagree during a school meeting, the student's ideas and choices have the most influence.

Power of Attorney

There are several types of Power of Attorney. All involve a competent adult voluntarily giving someone else (an "agent") the authority to make certain types of decisions on their behalf. The individual determines how broad or narrow the agent's authority will be. The areas of authority are clearly described in a written document that is signed, witnessed and notarized. Lawyers are not required. A Power of Attorney can take effect immediately. It can also be set up to take effect only under specific circumstances, such as a medical crisis. The Power of Attorney can be changed or canceled at any time.

Think about...

All adults are presumed to be competent unless proven otherwise. Power of Attorney works best if the individual and agent have a good relationship. If there is a disagreement, the individual makes the final decision.

Educational Representative

Policies Governing Services for Children with Disabilities includes specific steps that public schools must take when they believe that an adult student is not able to provide informed consent or exercise their rights under special education law. If there is no court-appointed guardian or other adult with power of attorney, the student will be evaluated by two professionals who do not work for the school system. If they certify the student as "incompetent," a parent, family member or surrogate parent is appointed to act as the student's educational representative.

Think about...

The educational representative is only involved in educational decisions. The certification of incompetence is reviewed at a chosen time, or whenever it is challenged by the student or another person. When there is a challenge, the student regains their rights until the review is completed.

There is no greater disability in society than the inability to see a person as more.

–Robert M. Hensel

The more risk you allow your children to take, the better they learn to look after themselves.

–Roald Dahl

Social Security Representative Payee

If an adult is not capable of managing the benefit payments that they receive from the Social Security Administration (SSA), SSA may appoint another person to manage the funds for them. That person is called a representative payee. They are expected to act in the beneficiary's best interest.

Think about...

SSA has its own process for determining whether someone requires a representative payee, and who will serve in that role. If there is new information, SSA can later decide that a representative payee is no longer needed.

Guardianship

Guardianship happens when a court gives someone the authority to advocate and make decisions for another person who does not have the ability to make or communicate major life decisions for themselves. A Guardian of the Estate manages the finances and property. A Guardian of the Person makes decisions about personal matters, such as health care, education and living arrangement. General Guardianship gives the guardian authority over both areas.

Think about...

Guardianship involves removing many rights that adults have. It should only be considered if there are no other options that adequately protect an adult and/or their property. It is possible to restore competency through a similar court process.

Special Needs Trusts

This type of trust allows a third party (the trustee) to hold and manage money to benefit a person with a disability (the beneficiary). If the trust is set up properly, the person will still be able to receive government benefits. The trustee can use the money to purchase things or services for the beneficiary that are not provided by federal, state or local government agencies.

Think about...

A Special Needs Trust must meet very specific legal requirements to allow the beneficiary to receive certain government benefits. It is a good idea to consult an attorney who works with trusts.



Tips for Parents and Supporters:

- Always encourage children and young adults to be as independent as possible.
- Allow children and youth to make decisions that are appropriate for their level of development.
- Allow them to learn from their experiences, good or bad, just like everyone else.
- Learning never stops! Assist your child/youth to improve existing skills and learn new ones.
- Look for tools or technology that can improve their ability to care for themselves, access the community, understand information and/or communicate with others.
- Offer help in a way that supports self-determination.

The central struggle of parenthood is to let our hopes for our children outweigh our fears.

–Ellen Goodman



907 Barra Row • Suite 103 • Davidson, NC 28036
Office: 704-892-1321 • Fax: 704-892-5028
Help Line: 1-800-962-6817 • Email: ecac@ecacmail.org
www.ecac-parentcenter.org



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 and ECAC are not legal services agencies 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.