



What Happens When My Child with a Disability Turns 18 Years Old?

Supports for Decisions in Adulthood



Center for Public
Representation





Today's Topics

- What Happens at Age 18?
- What is Adult Guardianship?
- Why Think About Other Options First?
- What is Supported Decision-Making?
- What are Other Options in:
 - Health Care?
 - Finances?
 - Education?

What happens at 18?

- In Massachusetts, people become legal adults when they turn 18 years old.
- Under the law, they get to make their own decisions, regardless of whether or not they have a disability
- Schools call this "Transfer of Rights"



Main Legal Tools for Decision-Making in Massachusetts

- Supported Decision-Making
- Shared Educational Decision-Making Authority
- Health Care Proxy
- Durable Power of Attorney
- Delegation of Educational Decision-Making Authority
- Representative Payee
- Court-appointed Guardian or Conservator



What is Guardianship for Adults?



- **Different** than guardianship of a **child**
- **Guardianship = Court**
- A **legal process** where a **court** decides that an adult is “**incapacitated**” and appoints someone else (a “**guardian**”) to make all or some decisions for them.

What is Guardianship NOT?



- Guardianship is NOT the **only option** to consider
- Guardianship is NOT just a **piece of paper**
- Guardianship is NOT a **guarantee of safety**
- Guardianship is NOT without **downsides**

What are Other Options?

- Supported Decision-Making
- Shared Educational Decision-Making Authority
- Health Care Proxy
- Durable Power of Attorney
- Delegation of Educational Decision-Making Authority
- Representative Payee
- And MORE!



What is Supported Decision-Making?

- People make their own decisions, with the help of others they pick and trust.
- Supporters provide guidance and assistance.
- It can be formal (in writing) or informal.
 - “Supported Decision-Making Agreement”
- It is flexible and can change over time.
- The person builds decision-making skills over time and learns from mistakes.
- It can be used in any state, including Massachusetts.
- It can be used without hiring an attorney and without going to court.



What is Supported Decision-Making NOT?

- It is NOT someone else making decisions for – and instead – of the person.
- It is NOT the person making decisions **alone**, without any help.
- It is NOT the person making decisions **only** if the supporters agree.
- It is NOT **only** for people with certain types of disabilities.



Personal Perspective



Hasan Ko

Common Legal Tools to Use Along with Supported Decision-Making

- Release of Information Forms
- Health Care Proxy
- Durable Powers of Attorney



Knowledge Check-In 1

True or False?

Under Massachusetts law, biological parents are automatically the legal guardian of their child with a disability when that child turns 18 years old.



Knowledge Check-In 1



False

Truth – Under Massachusetts law, biological parents are NOT automatically the legal guardian of their child with a disability when that child turns 18 years old.

Knowledge Check-In 2

True or False?

Parents must file for guardianship when their child with a disability turns 18 years old.



Knowledge Check-In 2



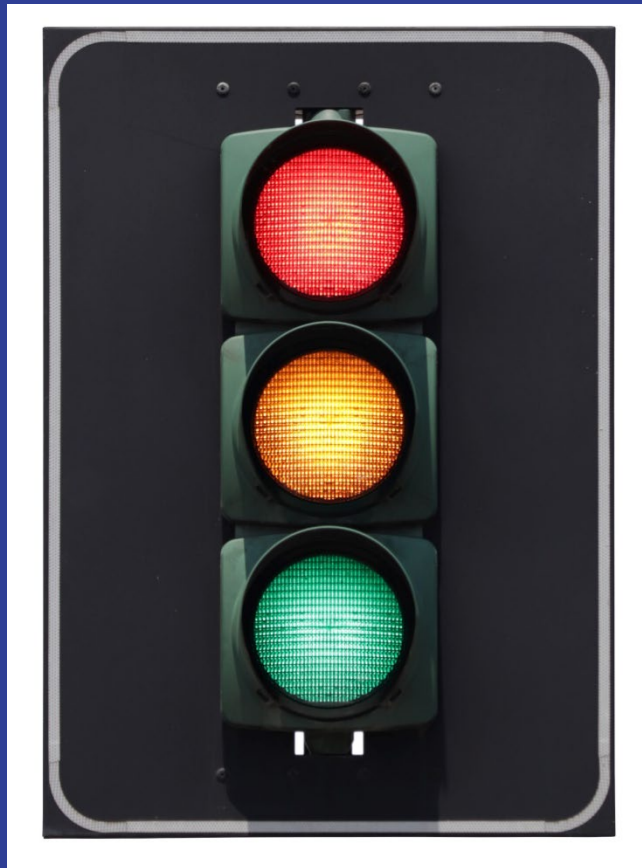
False

Truth – There is nothing in law that requires parents to file for guardianship when their child with a disability turns 18 years old. Parents and their loved ones should consider all of their options.

Knowledge Check-In 3

True or False?

Guardianship can be difficult to change or end.



Knowledge Check-In 3



True

Guardianship can be difficult to change or end.

Knowledge Check-In 4

True or False?

After a person turns 18, doctors can only talk to the person's parents if they get guardianship.



Knowledge Check-In 4



False

Truth – After a person turns 18, doctors can talk to the parents with the permission of that person.

Knowledge Check-In 5



True or False?

Supported Decision-Making can be used without hiring an attorney and without going to court.

Knowledge Check-In 5



True

Supported Decision-Making can be used without hiring an attorney and without going to court.

What are Some Other Options in Education?



- Supported Decision-Making
 - “FERPA” Release of Information Form
- Shared Educational Decision-Making
- Delegated Educational Decision-Making

Scenario 1

Arun just turned 18. He has an intellectual disability and will receive special education services through his school until he turns 22. Although his parents want him to get experience making his own decisions, they are concerned the school will stop sharing information with them, because Arun is now a legal adult. They need that information in order to help him understand how he is doing in school and whether he needs to ask for more educational services. Arun trusts his parents and wants their help.

What legal tools should Arun and his family consider?

What Are Some Other Options in Health Care?

- Supported Decision-Making
 - “HIPAA” Release of Information Form
- Health Care Proxy



Scenario 2

Dara has cerebral palsy and a learning disability. She is 20 years old. Her doctor recently told her that she needs to have a surgery. The medical words the doctor used confused her, and she wants help understanding and getting questions answered. Dara is also worried about what will happen if there are complications during the surgery that would make her no longer able to make medical decisions for herself.

What legal tools should Dara and her family consider?

What Are Some Other Options in Finances?

- Supported Decision-Making
- Durable Power of Attorney
- Representative Payees



Scenario 3

Sarun has autism and is 21 years old. His family helped him apply for Social Security benefits, and he has been found eligible to receive Supplemental Security Income. He does not currently use speech, but he is in the process of learning how to communicate with an iPad. He has never managed his own money before.

What legal tools should Sarun and his family consider?

Resources

- <https://supporteddecisions.org>
- <https://www.wearemass.org/supported-decision-making>
- <https://www.dlc-ma.org>



Questions Now or Later

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