The Transfer of Rights: An Educator's role

WISCONSIN DEPARTMENT OF
Public Instruction
Jill K. Underly, PhD, State Superintendent

The Educator's Role

- **Educators have a responsibility to <u>provide information</u> on decision making options**

- **Families along with their student <u>make decisions</u> that is the best option for their child**

Reaching the Age of Majority

- **Once a student with an IEP reaches the age of 18 all of the educational rights provided to parents transfer to the student unless the student has a legal guardian**

Reaching the Age of Majority

These educational rights include:

- **the right to receive notice of and attend the IEP meeting**
- **the right to consent to an evaluation**
- **the right to consent to a change of placement**
- **the right to request mediation or due process hearing to resolve a dispute**

Transfer of Rights Notification

Wisconsin State Statute [115.807(2)](#) notes the school's responsibility for when a student reaches age 18

The school must:

- **Provide notice to the parent and the student that all rights transfer to the student**

- **Provide information to the parent and student on:**

  Supported Decision Making

  Alternatives to Guardianship

  Strategies to remain engaged in the student's education

Transfer of Rights Notification

Sample Forms	Suggested Use
M-6 Notification of Upcoming Transfer of Rights	- Discuss the transfer of rights during the IEP year in which the student will turn 17 (or 1 year from age of majority) - Provide information on decision making options - M-6 for parents attached to IEP - M-6 for student sent in mail
M-7 Student Notification of Transfer of Rights	Mail M-7 on student's 18th birthday
M-8 Parent Notification of Transfer of Rights	Mail M-8 on student's 18th birthday

PTP and the Age of Majority

Transfer of Rights [DEMO] FakeEntry, DemoStudent X [PTP: 535082, WISEid:*NONE*]

Will DemoStudent reach 17th birthday during the timeframe of the IEP or has DemoStudent reached the age of 18? ◉ Yes ○ No

Specify how DemoStudent and parents have been informed of the rights which will transfer or have transferred to at age 18 if no legal guardian has been appointed.

The PTP includes a prompt to ensure the students and parents have been notified of the Transfer of Rights by the time a student reaches the age of majority

PTP and the Age of Majority

Transfer of Rights [DEMO] FakeEntry, DemoStudent X [PTP: 535082, WISEid:*NONE*] 🔓 Compliance ✓ Best Practices

Will DemoStudent reach 17th birthday during the timeframe of the IEP or has DemoStudent reached the age of 18? ● Yes ○ No

Specify how DemoStudent and parents have been informed of the rights which will transfer or have transferred to at age 18 if no legal guardian has been appointed.

Document the notification of the Transfer of Rights in Step 12 of the PTP

PTP and the Age of Majority

Transfer of Rights   [DEMO] FakeEntry, DemoStudent X [PTP: 535082, WISEid:*NONE*]   Compliance   Best Practices

Will DemoStudent reach 17th birthday during the timeframe of the IEP or has DemoStudent reached the age of 18?   Yes   No

Specify how DemoStudent and parents have been informed of the rights which will transfer or have transferred to at age 18 if no legal guardian has been appointed.

The Best Practices button includes resources on decision making options including Supported Decision Making

The Educator's Role

- **Educators have a responsibility to <u>provide information</u> on decision making options**

- **Families along with their student <u>make decisions</u> that is the best option for their child**

The Educator's Role

Educators Should

Provide information on all options

Encourage families to explore information on all options

Refer families to non-profit family support organizations

Educators Should Not

Recommend one option over others

Share what they think is best for the student/family

Refer families to organizations/individuals that would profit from their decision i.e. private attorney

Decision Making Options

Current decision-making support tools

Release forms

Individual signs a release form authorizing a specific person access to certain information or records.

Supported Decision-Making Agreement

Individual makes all their own decisions. They identify a supporter/s to assist them.

Representative Payee
Social Security Administration appoints an individual/org. to receive SSI/SSDI benefits for an individual who cannot manage their own.

Power of Attorney, (medical or financial)

Formal legal arrangements that permit others to act on the individual's behalf.

Limited or Full Guardianship

Transfers some or all decision-making authority from the individual to a court-appointed Guardian.

Less limiting ← → **More limiting**

Source: BPDD Supported Decision Making Toolkit, 2020

* For the purpose of this publication, the term "individual" refers to an individual with disabilities and/or an aging adult.

Resources

[Information Update Bulletin 19.01: Supported Decision Making Agreements](#)

[Guardianship Support Center](#)

[When your child turns 18; A guide to Special Needs Guardianship](#)

[Wisconsin Board for People with Developmental Disabilities-Supported Decision-Making and Guardianship Alternatives](#)

[National Resource Center for Supported Decision-Making](#)

[When People Need Help Managing Their Money](#)

[Wisconsin Department of Health Services, Forms Information-Advance Directives](#)