

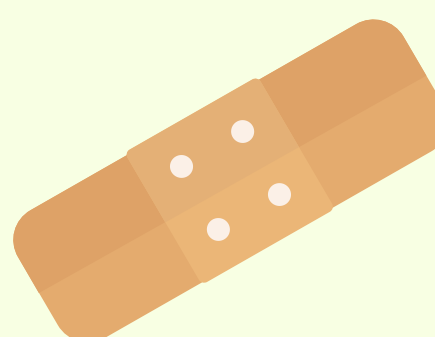
Age of Majority

A Guide to Adult Decision-Making Supports



As your adolescent approaches the "age of majority" (age 18), it can be intimidating to understand the various support options and choose the best plan for your family.

This guide contains information about what each option means, what it will look like for your family in the long-term, and what you need to do to put the supports in place.



age of ma-jor-i-ty :
the age at which a person is
granted by law the rights and
responsibilities of an adult

- Merriam-Webster



The Autism Program
AT BOSTON MEDICAL CENTER

Contents

Introduction.....1

Timeline.....2

Identifying Skills & Support Needs....3

Your Support Options.....4

Full and Limited Guardianship.....5

Durable Power of Attorney.....7

Healthcare Proxy.....8

Conservatorship.....9

Representative Payee.....10

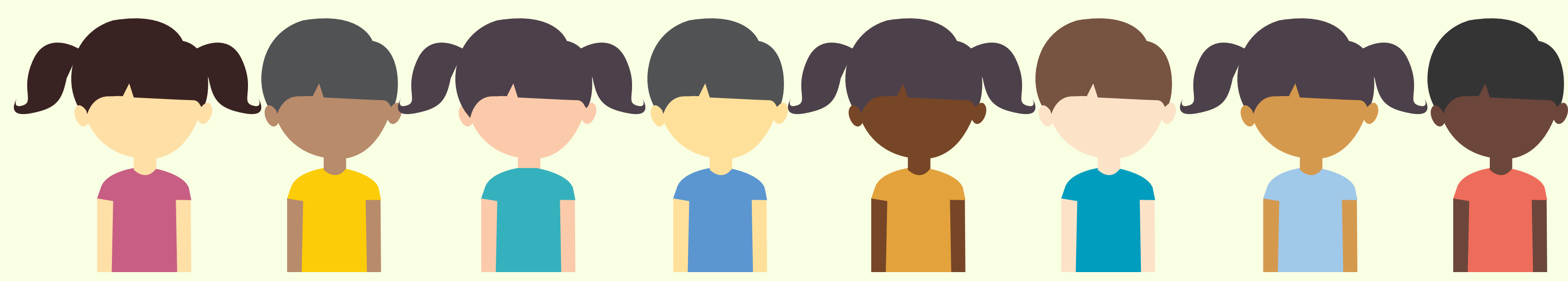
School Decision-Making.....11

Supported Decision Making.....12

Forms.....13

Legal Assistance.....14

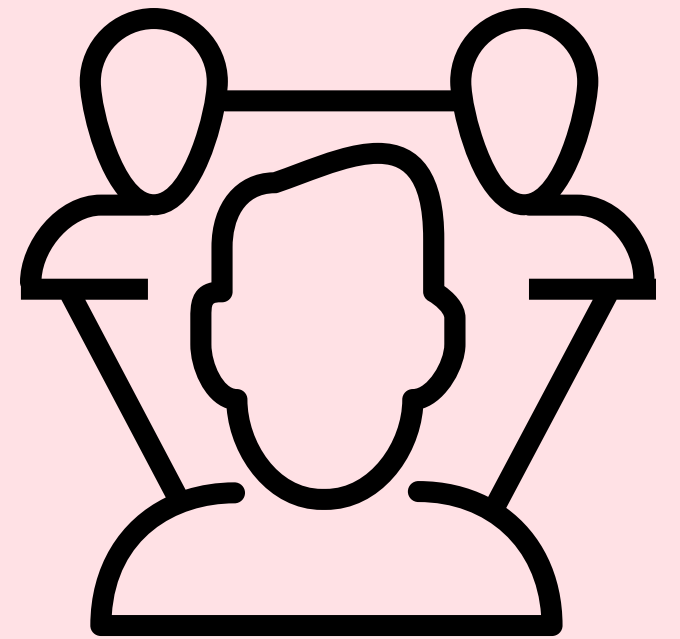
References.....15



Age of Majority Introduction

Age of Majority

- At age 18 in the United States, young people become legal adults and are responsible for making all legal, medical, and financial decisions.
- This means that their parent or guardian (as a minor) will not be able to make these decisions for them anymore.
- For individuals who are not able to make these decisions independently, supports are available. However, these supports require a setup process and paperwork. Some options also require going to court.



Understanding Capacity

The right decision-making support doesn't automatically depend on your adolescent's diagnoses or IQ score. The right option depends on your adolescent's **capacity** or ability to make his/her own decisions.

There is no standard legal definition of capacity. A person has capacity when they can understand all parts of a situation and make a decision based on this knowledge.

Having capacity doesn't mean that a person always makes good choices or needs to make decisions without advice or support from others. It does mean that the person can legally handle the responsibility and consequences of their decisions.

It can be helpful to think about:

- What can my young adult do independently?
- What can my young adult do with some help?
- What does my young adult need someone else to do?

Encouraging Independence

- Regardless of which support option is best for your family, it is important for your young person to stay involved in making decisions and advocating for their needs and wants. The support put in place should be there to make sure your young adult is protected and that decisions are being made in his/her best interest.
- Supports should not exist to be controlling or restrictive to the young adult. Some supports involve a change in legal status for your adolescent, so it is important that they understand and agree with the support option to the best of their ability.



Age of Majority Timeline

It is important to start thinking about support options for your adolescent around age 16.

General Tips

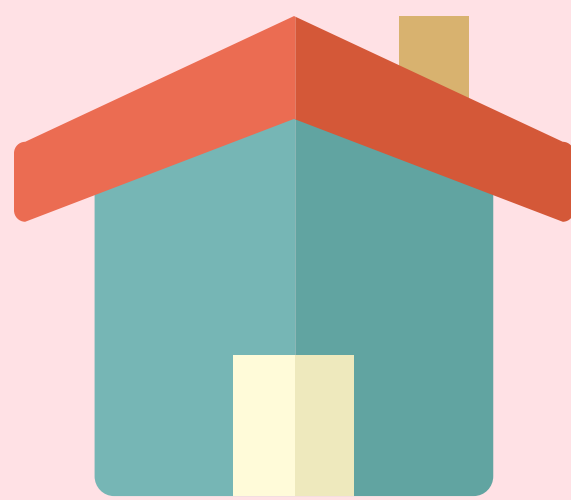
- Start to become familiar with the various options and consider your adolescent's individual needs for support.
- Discuss the options with your adolescent to get his/her input.
- It can be helpful to also discuss your thoughts with other family members, school staff, and/or medical professionals involved in your adolescent's care.
- You may want to consult a lawyer to discuss legal options and/or to customize paperwork for your family.



If you're pursuing ...

Power of Attorney and/or Healthcare Proxy

Paperwork can be completed on or after your adolescent's 18th birthday, as it required his/her legal signature.

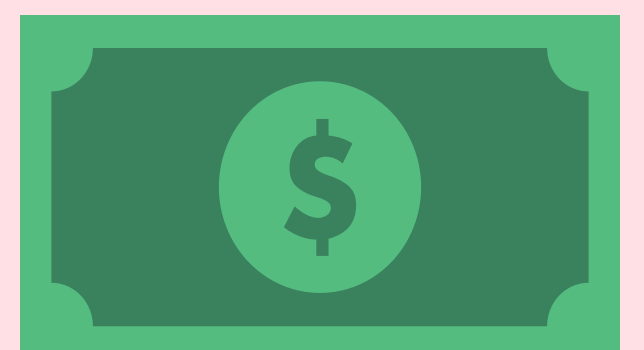
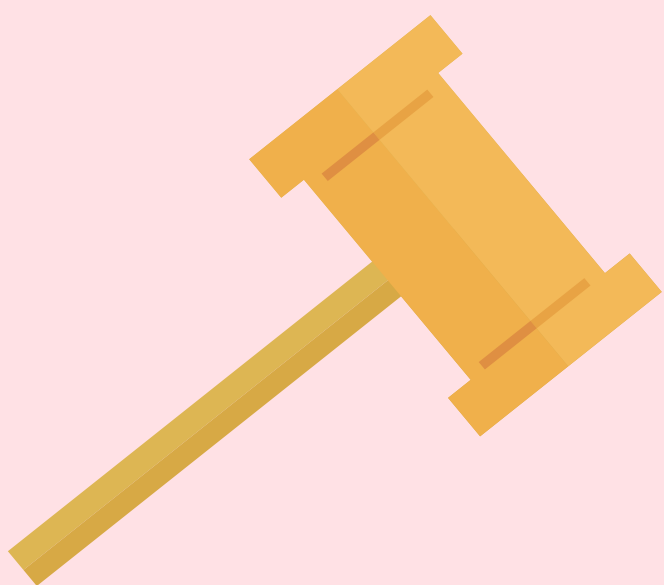


Supported Decision-Making Agreement

Your adolescent should begin identifying his/her supporters and speaking with them at age 17. The agreement can be set up and signed on or after the adolescent's 18th birthday.

Guardianship and/or Conservatorship

Begin identifying professionals who will complete the paperwork at age 17. Depending on the person's diagnoses, paperwork may not be filled out more than 30-180 days before the person turns 18. However, the earlier you plan, the easier the paperwork process will be.



Age of Majority

Identifying Skills & Support Needs

Adapted from the Exceptional Lives Guardianship Guide: What can your family member do, and what do they need help with?

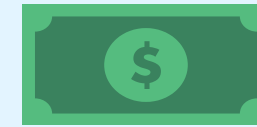
Before You Begin

It is always important to involve your adolescent and/or those closest to them in important life decisions like making a plan for support. Think about what your adolescent can do and where they need help, for either the short or long term. Examples of these skills are provided here.



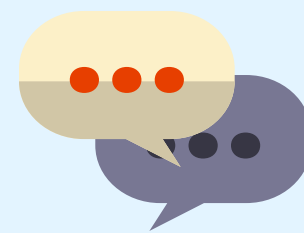
Medical Care

- Seek medical care when they are sick or injured
- Weigh the risks and benefits of medical procedures
- Understand the need for routine medical care
- Understand that they may still need a medical procedure, even if it is painful or unpleasant
- Assess whether taking a certain medicine is important, even though it may have unpleasant side effects
- Provide accurate information about their medical condition
- Follow medical advice and treatment plans



Finances

- Apply for a credit card/open a bank account and manage these accounts
- Apply for and manage SSI benefits
- Keep money safe so it's not lost or stolen
- Keep a monthly spending budget
- Pay for expenses



Communication

- Communicate effectively (verbally or by other means)
- Understand that they have choices
- Express their preferences



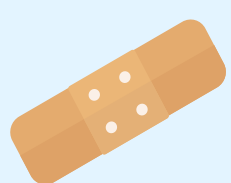
Legal/Decision-Making

- Understand what it means to sign documents
- Make sound decisions in important life areas like housing, school, and work

Education

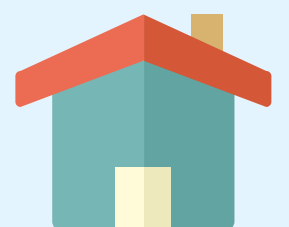


- Understand their learning issues and the services they need at school
- Advocate to get the services they need



Self-care and Safety

- Use basic safety skills: staying away from dangerous areas, locking doors, not talking to strangers, being careful around fires, stoves, candles, etc.
- Get help during emergencies like fires or accidents



Living Arrangements

- Take care of themselves, physically
- Buy food, clothing, and shelter
- Live in a group setting and respect others' needs for quiet, privacy, and cleanliness

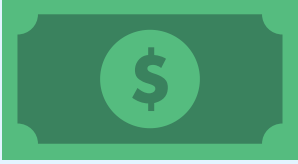



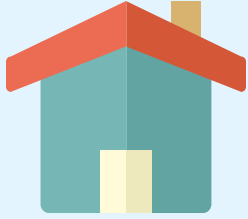
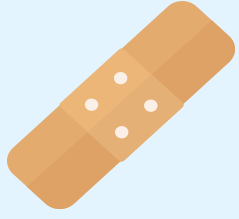


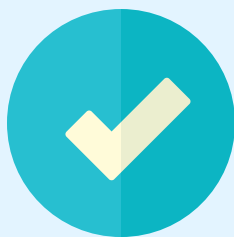

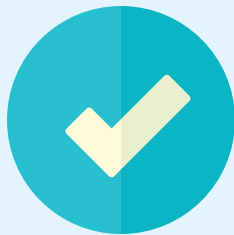













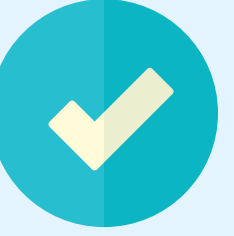
Vocational/Adult Services



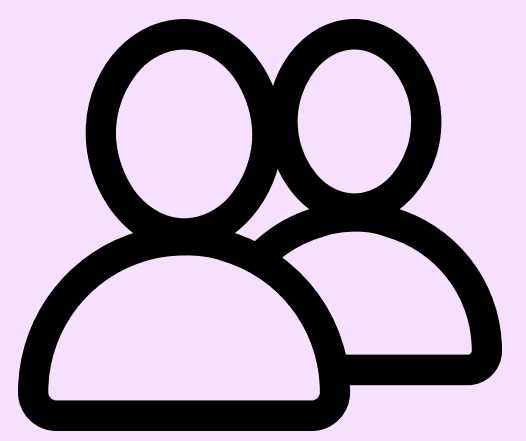
- Apply for services from government agencies (DDS, MRC, DMH)
- Access the services they need, like job training, job support, or day programs
- Advocate for themselves to get the best possible services

Age of Majority

Your Support Options

What type of support is this?		 Financial	 Legal	 Medical	 Education	 Property	 Well-being
# 1	Guardianship Legally appoints someone to make decisions in some or all areas for an individual Can be combined with 4, 5						
# 2	Durable Power of Attorney Handles financial and legal matters for someone. Can be combined with 3, 4, 5, 6						
# 3	Healthcare Proxy Makes an individual's health decisions if they are unable to. Can be combined with 2, 4, 5, 6						
# 4	Conservatorship Makes decisions about an individual's property or business affairs. Can be combined with ALL						
# 5	Representative Payee Makes financial decisions regarding Social Security benefits for someone. Can be combined with ALL						
# 6	School Decision-Making Makes educational decisions for or with individual. Can be combined with 2,3,4,5,7						
# 7	Supported Decision-Making A network that helps an individual make their own decisions. Legal power remains with the individual. Can be combined with 2, 3, 5, 6						

Age of Majority Guardianship



What is Guardianship?

A guardian is a person who makes personal, legal, and/or medical decisions for someone. A guardian can be the individual's parent(s) or another trusted adult. Legal power transfers from the individual to the guardian.

Full Guardianship

A full guardianship grants the guardian the authority to make decisions for a person in all life areas.

Limited Guardianship

Limited guardianship restricts the guardian's powers to only the areas in which the person needs help (e.g., medical treatment decisions or legal/financial decisions).

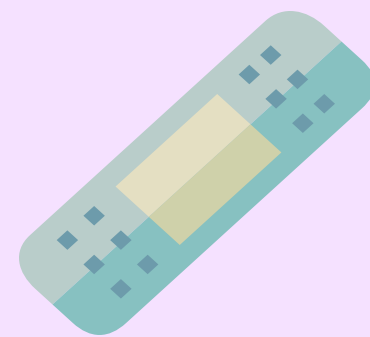
Rogers Order

A Rogers order is required before a guardian can consent to "extraordinary medical treatment" of a person, such as anti-psychotic medication, electroshock therapy, sterilization, etc. This requires additional medical paperwork and reporting, and is reviewed each year.

What will this look like for my family?

The guardian will have legal power to make decisions for your adolescent, similar to when they were a minor. The guardian should be making decisions in the best interest of your adolescent and encourage him/her to participate in making decisions.

Your adolescent will still have the freedom to do things like have a job, travel independently (taking public transportation or learning how to drive), have friends, run errands, go to college, vote, etc. However, the power to make major decisions moves from your adolescent to his/her guardian – he/she does not keep any legal rights or responsibilities for making these decisions.



Examples of Decisions

- ◆ Managing basic finances
- ◆ Medical care/treatment
- ◆ Applying for health insurance
- ◆ Signing paperwork

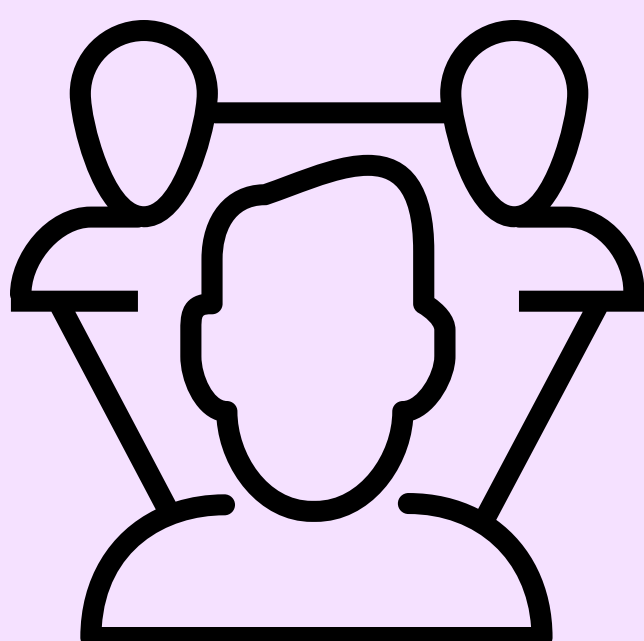


Glossary

Incapacitated person:

individuals with a clinically diagnosed condition who lack the ability to make and communicate decisions

Notice: providing information to those who may attend the proceeding
Return of Service: showing the court that all interested parties have received notice

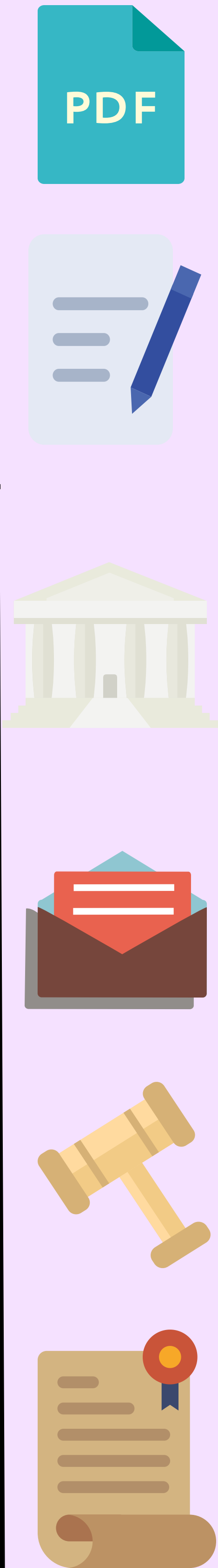


Age of Majority Obtaining Guardianship: The Process

If your adolescent
DOES have an
intellectual disability...

If your adolescent
DOES NOT have an
intellectual disability...

1. Download a **Clinical Team Report (CTR) Form**.
2. Obtain signatures from ALL THREE of the following: Physician, Psychologist AND Social Worker within 180 days of filing guardianship petition.
3. Download and complete **Petition to File for Guardianship**.
4. Go to the clinic at your local courthouse or consult an attorney to make sure you have the correct forms.
5. File Petition for guardianship with the completed CTR at your local Family and Probate court.
6. Get a notice from the court and ask a non-family member to give it to the individual showing that you are seeking to be made his/her guardian.
7. Get an updated CTR form if the signatures are signed beyond 180 days of the court date.
8. Attend the court proceedings with the individual unless explained otherwise.
9. File a plan for the individual within 60 days after the courts grant guardianship. Complete annual reports each year.



1. Download a **Medical Certificate Form**.
2. Obtain signatures from ONE of the following: Physician, Psychologist OR Clinical Nurse Specialist within 30 days of filing guardianship petition.
3. Download and complete **Petition to File for Guardianship**.
4. Go to the clinic at your local courthouse or consult an attorney to make sure you have the correct forms.
5. File Petition for guardianship with the completed MC at your local Family and Probate court.
6. Get a notice from the court and ask a non-family member to give it to the individual showing that you are seeking to be made his/her guardian.
7. Get an updated MC form if the signatures are signed beyond 30 days of the court date.
8. Attend the court proceedings with the individual unless explained otherwise.
9. File a plan for the individual within 60 days after the courts grant guardianship. Complete annual reports each year.



What is Power of Attorney?

A power of attorney is when someone can make legal and financial decisions on a person's behalf. Having this responsibility doesn't require taking care of another person physically, but rather handling their legal decisions. The person also keeps their own power to make decisions.

What will this look like for my family?

Both your adolescent and his/her agent will be able to legally make decisions and sign documents regarding legal or financial matters. This provides your adolescent with some independence along with support.



Examples of Decisions

- ◆ Signing paperwork
- ◆ Financial transactions
- ◆ Buying life insurance
- ◆ Managing bank accounts



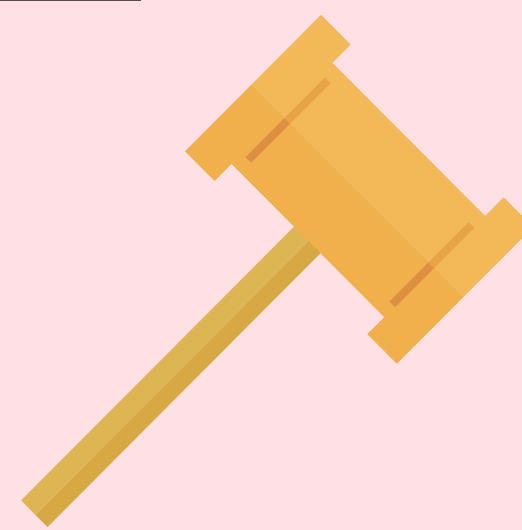
Durable Power of Attorney

The agent has power of attorney abilities as soon as the paperwork is signed and comes into effect. Even if the individual becomes legally 'incapacitated', the agent will keep decision making power.



Springing Durable Power of Attorney

The agent only has power of attorney abilities if the principal is deemed legally incapacitated by a physician.



What do I have to do?

- ◆ Durable power of attorney is established through paperwork and no court appearance is required.
- ◆ The power of attorney form must be signed and notarized.
- ◆ Either party can choose to stop the power of attorney at any time.

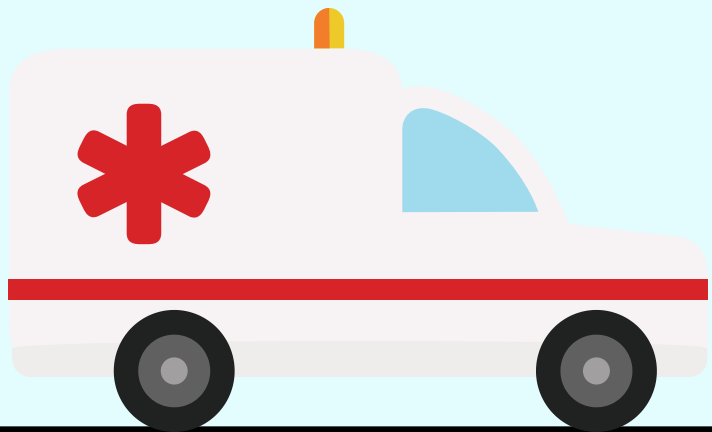


Glossary

Principal: The individual transferring power of attorney.
Agent: The person receiving power of attorney

Age of Majority

Healthcare Proxy



What is a Healthcare Proxy?

A Health Proxy is someone who is allowed to make medical decisions on an individual's behalf only when the person becomes medically unfit.

What will this look like for my family?

The proxy can make healthcare decisions for your adolescent if a physician determines they become unable to do so on their own.

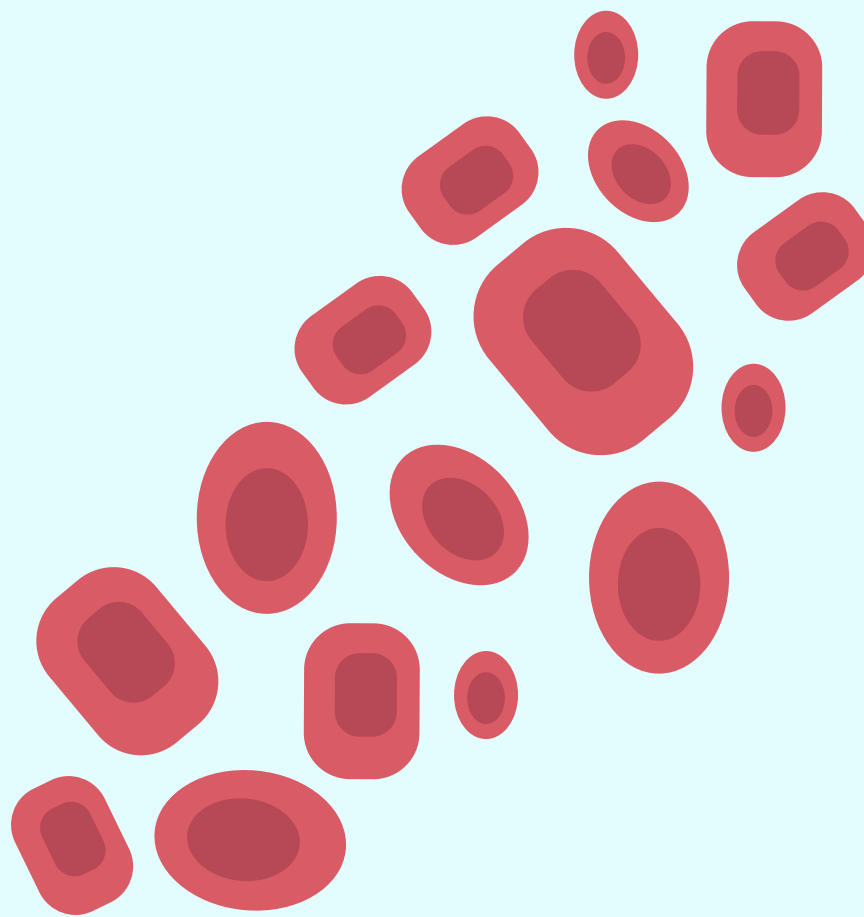
A proxy would step in if an individual is...

- ◆ In a coma
- ◆ Temporarily unconscious
- ◆ Unable to communicate needs
- ◆ Unable to make healthcare decisions



Remember

A health proxy can only be named by someone who is considered "competent". An individual can still otherwise make their own healthcare decisions, but family members may provide advice and support. Additionally, the individual can end the health proxy agreement at any point.



What do I have to do?

- ◆ An individual appoints a healthcare proxy and an alternate, in case the proxy can't perform their duties.
- ◆ A healthcare proxy form must be completed and signed with two witnesses, not including the individual, proxy, or alternate.
- ◆ A copy of the form must be given to the individual's healthcare provider.



Glossary

Proxy: the authority to represent someone else or act on their behalf

Age of Majority Conservatorship



What is a Conservatorship?

An individual is appointed to make all financial and business decisions on behalf of someone else. This is an arrangement for individuals with significant means or property.

What will this look like for my family?

Conservatorship allows you to ensure financial care and protection of your adolescent and prevents property in their name from being wasted.



Examples of Decisions

- ◆ Paying Bills
- ◆ Mortgage or rent payments
- ◆ Medical expenses
- ◆ Managing property

Levels of Control

There are different degrees of control, ranging from very limited to full (also called plenary conservatorship). This is determined by the court and is dependent on the individual.



What do I have to do?

- ◆ Prior to court hearing, the protected person should submit a nomination for their conservator.
- ◆ Medical proof of incapacity must be obtained and provided to the court.
- ◆ Officially appointed by Probate & Family Court based on Protected Person's nomination and nominee's ability to ensure care of Protected Person
- ◆ File an inventory (list of estates and assets) to the court within 90 days.
- ◆ File a financial plan.
- ◆ Contact all institutions with protected person's assets and claim conservatorship role
- ◆ File an annual account.



Glossary

Protected Person:

patient who needs support

Conservator: person appointed to help them

Inventory:

comprehensive list of Protected Person's estates and assets

Annual Account: a summary of spending and asset management with Schedules A, B, C

Age of Majority Representative Payee



What is a Representative Payee?

Someone who manages Social Security benefits on behalf of another person, called a beneficiary.

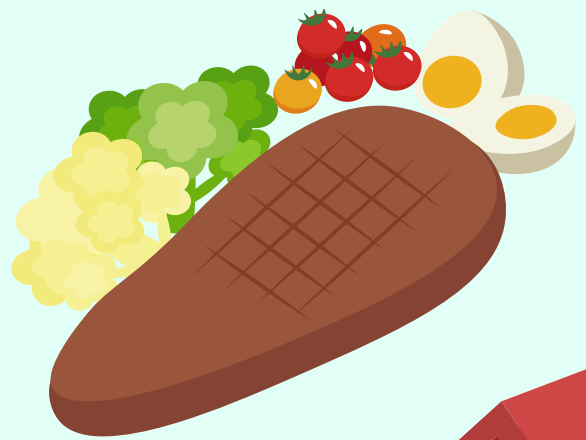
What will this look like for my family?

Your adolescent's payee will be able to use their benefits to pay for any needs they may have and place any leftover benefits into savings. The payee is also responsible for keeping records and reporting to the SSA.



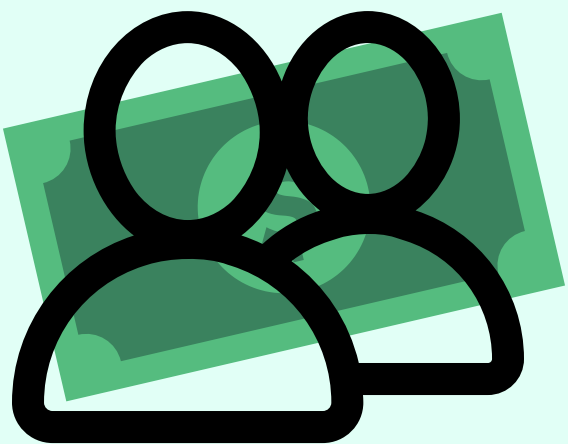
Examples of Decisions

- ◆ Buying food
- ◆ Housing expenses
- ◆ Dental and medical care
- ◆ Any personal expenses



Payee Duties

A payee primarily manages Social Security Benefits, including SSI and SSDI. The Social Security Administration (SSA) determines which areas the payee has power over and can conduct random checks to ensure benefits are handled properly.



What do I have to do?

- ◆ An individual must apply to have a rep payee by contacting their local Social Security office.
- ◆ In person, the payee applicant completes form SSA-11 and provides identification.
- ◆ The Social Security Administration determines an individual's eligibility for a payee and appoints their representative.
- ◆ Priority of representation is given to the individual's legal guardian, family, and then any agent with custody.
- ◆ The individual can then appeal the decision to be represented or the choice of representative.



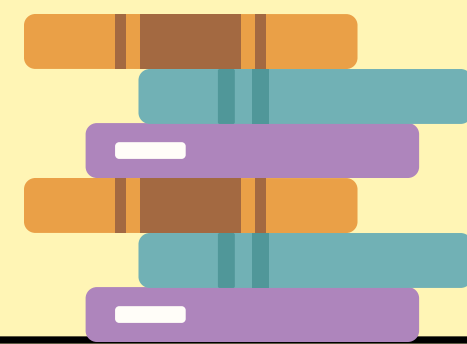
Glossary

Beneficiary: The person being represented.

Payee: person appointed to represent them



Age of Majority School Decision Making



What is School Decision Making?

School decision making allows a parent (or other adult) to be involved in educational decisions for an individual.

What will this look like for my family?

If approved, you would be able to stay involved in your adolescent's education beyond age 18, until they leave school.

Examples of Decisions

- ◆ Accepting or rejecting an IEP
- ◆ Requesting assessments
- ◆ Deciding to continue special education programming
- ◆ Deciding how long to stay in school



Delegated Decision Making

In delegated decision making, a parent will keep making educational decisions after the individual turns eighteen.

Shared Decision Making

In shared decision making, a parent will share educational decision making power with the individual. If there is a disagreement, the student's decision will stand.

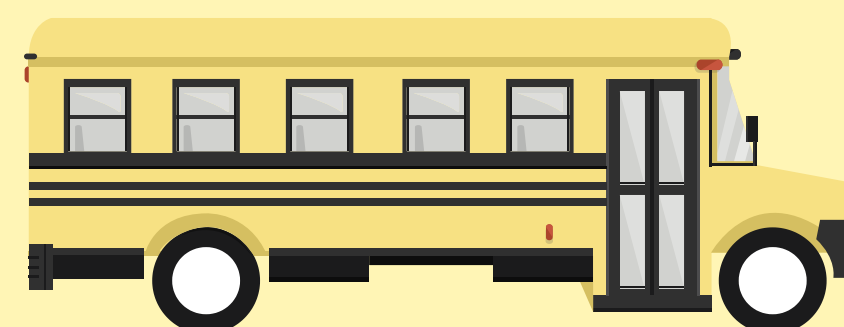
What do I have to do?

- ◆ School districts inform student of age of majority rights at 17 and document in IEP.
- ◆ Age of Majority is discussed among team members leading up to the student's 18th birthday. The student must agree to share or delegate decision making.
- ◆ The individual's choice to use one of these options is documented by representatives of the school district.
- ◆ School must obtain consent from student to continue existing special education services once the student turns 18.



Glossary

IEP: Individualized Education Program



Age of Majority Supported Decision Making



What is Supported Decision Making?

Supported Decision Making, or SDM, involves an individual identifying a team of people to support them in making important life decisions. A support network can consist of friends, family, mentors, or other community members.

What will this look like for my family?

Your adolescent would keep their legal right to make decisions, but would have a support network to help advise them.



Examples of Decisions

- ◆ Living arrangements
- ◆ Job opportunities
- ◆ Financial Matters
- ◆ Healthcare
- ◆ Relationships



Why SDM?

SDM maximizes an individual's independence and promotes self advocacy, because no decision making power is taken away from them. Rather, the individual receives support and is empowered to make their own decisions.



What do I have to do?

- ◆ Individuals create Representation Agreements, where they specify areas they need help making decisions in and appoint people to their support network.
- ◆ Network supporters can sign documents agreeing to respect the individual's choices and decisions.
- ◆ Representation Agreements can be signed before a notary public, though this is not required.



Glossary

Self-advocacy: the action of representing oneself of one's views or interests

Notary public: an official authorized by the government to witness the signing of important documents



Age of Majority Forms



Guardianship:

- www.mass.gov/files/documents/2016/08/nc/mpc402-clinical-team-report-fill.pdf
- www.mass.gov/files/documents/2016/08/xn/mpc400-medical-certificate-guardianship-or-conservatorship-fillable-2010.pdf
- www.mass.gov/files/documents/2016/08/vf/mpc120-petition-for-appointment-of-guardian-adult-fill.pdf

Durable Power of Attorney:

- www.powerofattorney.com/massachusetts

Healthcare Proxy:

- [www.massmed.org/Patient-Care/Health-Topics/Health-Care-Proxies-and-End-of-Life-Care/Massachusetts-Health-Care-Proxy---Information,-Instructions-and-Form-\(pdf\)](http://www.massmed.org/Patient-Care/Health-Topics/Health-Care-Proxies-and-End-of-Life-Care/Massachusetts-Health-Care-Proxy---Information,-Instructions-and-Form-(pdf))

Conservatorship:

- www.mass.gov/lists/probate-and-family-court-forms-guardianship-and-conservatorship

Supported Decision Making:

- www.supportmydecision.org/assets/tools/ACLU-how-to-make-a-SDM-Agreement.pdf
- www.supporteddecisions.org/wp-content/uploads/2015/09/SDM-Representation-Agreement-pdf.pdf

Age of Majority Legal Assistance



Find Legal Help & Information

Volunteer Lawyers Project / Eastern Regional Legal Intake (ERLI)

Helpline - Hotline providing residents of the Greater Boston area with free legal information and referrals.

- Phone: (617) 603-1700 | Website: www.vlpnet.org/need-legal-help

Mass Legal Help - Database of legal services and information to help individuals find legal help.

- Website: www.masslegalhelp.org

MLPB - Network of lawyers that work with medical providers to provide free legal information/assistance to patients at participating health care institutions, including BMC. MLPB can also connect patients with pro-bono attorneys. Contact your provider for a referral.

- Website: www.mlpboston.org

Disability Law Center - Provides legal advocacy on disability issues that promote the fundamental right of all people with disabilities to participate fully and equally in the social and economic life in Massachusetts.

- Phone: (617) 723-8455 | Website: www.dlc-ma.org

Courthouse Clinics/Resources

The following **Probate & Family Courthouses** offer free legal clinics on guardianship to families who qualify. Lawyers and law students can help with completing, reviewing, and submitting applications for guardianship. Families should have all supplemental paperwork (assessments, medical reports, etc.) completed before attending the clinic and should bring these with them to the courthouse.

Suffolk County Probate & Family Court in Boston

Tuesdays from 9 a.m. to 1 p.m. on the 2nd Floor of the Brooke Courthouse in the Court Services department.

Middlesex County Probate & Family Court in Cambridge

Thursdays from 10 a.m. to 1 p.m. on the 2nd Floor of the Courthouse in East Cambridge.

Brockton District Court (Plymouth County)

Contact Pilgrim Advocates at 508-583-6966 or the clerk's office at 508-587-8000 for the clinic schedule.

Other Courthouses offer assistance through a **Court Services** or **Lawyer of the Day** program - for more information, contact your county's Probate Court clerk or visit:

www.mass.gov/service-details/lawyer-for-the-day-programs
www.mass.gov/service-details/learn-about-court-service-centers

References & Additional Information

Guardianship:

- www.exceptionallives.org/guardianship-guide
- www.bmc.org/sites/default/files/Patient_Care/Specialty_Care/AutismConsortiumTransitiontoAdulthoodManual.pdf [pages 12-19]
- www.masslegalservices.org/system/files/library/vlp_guardianship_adults_brochure.pdf
- www.massguardianshipassociation.org/information/guardianship-of-an-adult-2
- www.massguardianshipassociation.org/pdf/FINALHandbookforGuardians.pdf
- www.mass.gov/courts/selfhelp/guardians/guardianship-ip.html

Durable Power of Attorney:

- www.massguardianshipassociation.org/information/alternatives-to-guardianship-and-conservatorship/alternative-to-conservatorship-a-durable-power-of-attorney
- www.info.legalzoom.com/durable-power-attorney-massachusetts-20314.html

Healthcare Proxy:

- www.massmed.org/healthcareproxy/#.Wl5ccZM-euU
- www.brighamandwomensfaulkner.org/about-us/patient-visitor-information/advance-care-directives/ma-health-care-proxy-faqs.aspx
- www.ppal.net/wp-content/uploads/2011/01/Legal-guide-single-page-all-for-web.pdf

Conservatorship:

- www.massguardianshipassociation.org/information/conservatorship/what-does-a-conservator-do
- www.mass.gov/files/documents/2017/10/04/3-Conservators-HandbookforConservators-Version1.pdf
- www.massguardianshipassociation.org/information/conservatorship/what-does-a-conservator-do

Representative Payee:

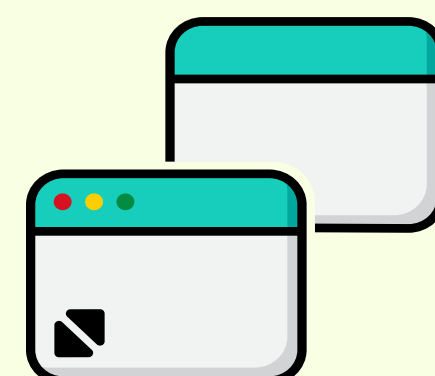
- www.mhla.org/Docs/Representative_payees.pdf
- www.ssa.gov/payee/faqrep.htm
- www.ssa.gov/pubs/EN-05-10076.pdf

School Decision Making:

- www.doe.mass.edu/sped/advisories/11_1.html
- www.fcsn.org/linkcenter/wp-content/uploads/sites/25/2017/08/dese_student_ieps_brochure_web-sm.pdf

Supported Decision Making:

- www.supporteddecisions.org





The Autism Program

AT BOSTON MEDICAL CENTER

This guide was developed by:

Lia Hsu-Rodriguez, MIT '21

Roma Pradha, MIT '18

Coral Bays-Muchmore, MIT '18

Yichen Zhu, Tufts University MA '18

Meghana Kamineni, MIT '21

Ohyoon Kwon, MIT '20

with Simone Dufresne, MA - Transition Navigator

For more information & resources, contact:

The Autism Program at Boston Medical Center

617.414.3842 | autismprogram@bmc.org

www.BMC.org/autism

Special thanks:

Kara Hurvitz, MLPB

Anne McDonald, BMC

Disclaimer: The content of this guide is intended to provide information only and does not constitute legal advice. For further legal information/advice, please contact an attorney.