This Guide is intended to be used by educators to guide planning efforts for persons with disabilities and their families, such as IEP meetings or sessions with vocational counselors. The Guide is associated with two other documents: “Student Guide to Legal Rights” and “Parent Guide to Legal Rights.” These two Guides can be found at supportingchoices.org or fddc.org.
DECISION-MAKING PRINCIPLES

Self-determination
The concept of self-determination is the basis for adult decision-making. The “decision maker” is always the person with a disability unless he or she has given permission to someone else or a court. The following principles should be understood in order to protect the civil rights of a person with a disability.

- Person-centered planning
When making short- or long-term plans, the person leading the planning process should be the person affected, and all planning should involve that person to the fullest extent possible. Person-centered planning is based on the values of human rights, independence, choice and social inclusion, and is designed to enable people to direct their own services and supports.

- Least restrictive alternative
Defining the least restrictive alternative involves matching the individual's preferences, needs, skills and abilities with the options that provide the greatest freedom to the individual. Consideration must be given from the person affected, and all planning should involve that person to the fullest extent possible. Person-centered planning is based on the values of human rights, independence, choice and social inclusion, and is designed to enable people to direct their own services and supports.

- Decision- making option
When making short- or long-term plans, the person leading the planning process should be the person affected, and all planning should involve that person to the fullest extent possible. Person-centered planning is based on the values of human rights, independence, choice and social inclusion, and is designed to enable people to direct their own services and supports.

- Informed consent
Informed consent is the basis for adult decision-making. The “decision maker” is always the person with a disability unless he or she has given permission to someone else or a court. The following principles should be understood in order to protect the civil rights of a person with a disability.

- Substituted judgment
When the person with a disability is unable to participate in decision-making, a decision maker must be identified who can make decisions based on a determination of what the individual would have chosen if he or she were able to make a choice. This is sometimes referred to as “standing in the shoes of the person.” The decision maker makes decisions based on what is known about the values and preferences of the person.

- Best interest
This principle is used when a person under guardianship never had capacity or when the person's wishes cannot be determined. The best interest principle should be used only as a last resort because it completely replaces the person’s dignity and self-worth.

OPTIONS FOR DECISION MAKING

- Power of Attorney
- Medical Proxy
- Guardianship
- Guardian Advocacy
- Advance Directives
- Power of Attorney
- Medical Proxy
- Guardianship
- Guardian Advocacy
- Advance Directives

LEGAL RIGHTS

1. Civil Rights
Florida enumerates the civil rights afforded all its citizens in law. Some rights can never be revoked by a Court; others can be temporarily suspended and delegated to a legal agent; and others may be removed by the Court but not degradable. The table below outlines some key rights, including civil rights associated with various civil rights.

- Right to seek or retain employment

- Right to marry (if the right to enter into a contract has been removed, the right to marry is subject to court approval as marriage is a contractual right under Florida law)

- Right to travel

- Right to have a driver’s license

- Right to obtain public assistance as they begin to exercise their independence. Reminding them of the people in their circle of support is important.

- Reminders to the police (9-1-1). Makes sure that the young adult knows where to go if there is a problem and which police officers to call.

- Reminders to the Florida Abuse Hotline (1-800-96-ABUSE) or the Florida Abuse Hotline (1-800-96-ABUSE). Can send a message of support to the young adult or to the family and friends of the young adult.

- Reminders to the young adult's mentor or life coach, and others.

- Reminders to the young adult's teacher, a caregiver or service provider, a mentor or life coach, and others.

- Reminders to the young adult's trusted friends, someone from a place of worship, a provider of services, or a legal advocate.

- Reminders to the young adult's legal advocate, a family member, a friend or family member, their doctor or lawyer, the Florida Abuse Hotline (1-800-96-ABUSE), and the police (9-1-1).
OPTIONS FOR DECISION MAKING

- Person-centered planning
  - The concept of self-determination is the basis for adult decision-making. The “decision maker” is the person affected, and all planning should involve that person to the fullest extent possible. Person-centered planning is based on the values of human rights, independence, choice and social inclusion, and is designed to enable people to direct their own services and supports.

- Advance Directives
  - Person-centered planning
  - Decision Maker
  - The principle of substituted judgment requires a decision maker to make substituted judgment decisions based on a determination of what the individual would choose if he or she were able to make a choice. This is sometimes referred to as “standing in the shoes of the person.” The decision maker makes decisions based on what is known about the values and preference of the person.

- Guardianship
  - This principle is used when a person under guardianship never had capacity or when the person’s wishes cannot be determined. The best interest principle should be used only as a last resort because it completely replaces the person’s input.

- Trusts
  - The three critical elements of the informed consent principle are that the person understands the risks and benefits related to the decision; has the ability to make and communicate the decision; and is not coerced into the decision.

- More Restrictive
  - Decision-Making Options:
    - Guardianship and Guardian Advocacy:
      - Guardianship: A legal arrangement in which the guardian has complete authority to appoint other people to make decisions on behalf of the incapacitated person. Guardianship is considered the “most restrictive” option. When a person is assigned a legal guardian, some or all of the person’s rights are removed by the Court and those functions are carried out by the guardian. The guardian begins with the legal guardian of the person in question does not have the capacity to exercise his or her rights. The Court process includes the appointment of an examining committee, attorneys, and a court hearing. If the court rules that the person is unable to exercise some or all of his or her rights, the Court then decides if all the civil rights are assigned to a legal guardian or only some of the rights are assigned (limited guardianship). Guardianship is the most restrictive option for decision-making. 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DECISION-MAKING PRINCIPLES

Self-determination

The concept of self-determination is the basis for adult decision-making. The “decision maker” is always the person with a disability unless he or she has given permission to another to make decisions on his or her behalf. The following principles should be understood in order to protect the civil rights of a person with a disability.

- Personal-centered planning

When making a plan over a long-term plan, the person leading the planning process should be the person affected, and all planning should involve that person to the fullest extent possible. Personal-centered planning is based on the values of human rights, independence, choice and social inclusion, and is designed to enable people to direct their own services and supports.

- Least restrictive alternatives

Defining the least restrictive alternative involves matching the individual’s preferences, needs, skills and domains and specifies whether they are delegable.

OPTIONS FOR DECISION MAKING

CONSIDERATIONS

1. Talking to parents about planning

As students approaching adulthood begin to express their independence, parents and other trusted adults can work with them in setting realistic goals and priorities for their abilities and personal goals. Parents are also concerned about the safety and well-being of their adult children, and may need reassurance that there are broad networks of support and legal options to help keep their adult children protected. Parents should know that:

- They are no longer the legal guardian of their child.
- Adults with disabilities have a range of legal options and supports to draw upon.
- Less restrictive legal decision-making options should be used whenever appropriate.

2. Turning 18 in Florida

Children under 18 are under the care of their parents (or legal guardians), who are empowered to make financial, medical, social, or other decisions for their children unless the child is old enough to make decisions for himself or herself. In Florida, there are various legal systems, including power of attorney, medical proxy, or guardianship, that can be used to provide additional support and direction.

3. Circles of support

All young adults can benefit from advice and assistance from trusted friends, someone from a place of worship, a teacher, a caregiver or service provider, a mentor or life coach, and others.

4. Abuse, Neglect and Exploitation

As parents become more involved in making their own decisions, it is also their responsibility to recognize the possible signs of being abused, neglected, exploited or bullied. Harmful activity may appear anywhere: at school, at work, at home or on the Internet. Members of the circle of support should recognize warning signs of the person to the parents to do or to a court removes the legal rights of the adult child. The adult child and the guardian should plan on what supports he or she may need.

5. Guardianship

In Florida, there are various legal solutions including power of attorney, medical proxy, or guardianship. The three critical elements of the informed consent principle are that the person understands the risks and benefits related to the decision; has the ability to make and communicate the decision; and is not coerced into the decision.

- Substituted judgment

The time that substituted judgment is used is when an individual has given another person the right to make decisions for him or her, or when the court has given that right to a guardian or guardian advocate. The principle of substituted judgment requires a decision maker to make substituted judgment decisions based on a determination of what the individual would choose if he or she were able to make a choice. This is sometimes referred to as “standing in the shoes of the person.” The decision maker makes decisions based on what is known about the values and preference of the person.

- Best interest

This principle is used when a person under guardianship never had capacity or when the person’s wishes cannot be determined. The best interest principle should be used only as a last resort because it completely replaces the person’s dignity and safety.

LEGAL RIGHTS

1. Civil Rights: Florida enumerates the civil rights afforded all its citizens in law. Some rights can never be removed by a Court; others may be removed by a Court, and guardian advocacy can be considered the most restrictive option. For a person under guardianship, decision making ability to pay some, but not all of the tasks necessary to care for him or herself or property. There are only minor differences between Guardianship and Guardian Advocacy. Guardianship is the most restrictive option for decision-making. When a person is assigned a legal guardian, some or all of the person’s rights are removed by the Court and these functions are carried out by the guardian. The legal guardian begins with any adult petitioning the Court that the person in question does not have the capacity to exercise his or her rights. The Court process includes the appointment of an examining committee, attorney, and a court hearing. Guardian Advocacy is available only to adults diagnosed with a developmental disability and who lack the decision-making ability to perform some, but not all of the tasks necessary to care for him or herself or property. There are only minor differences between Guardianship and Guardian Advocacy.

2. Decision-Making Options: Options are available for adults who need assistance in making decisions or exercising their civil rights. Some of these, following the principle of self-determination, allow for maximum input from the person seeking support. These are called “least restrictive” options. Other options, such as guardianship, allow guardians to make decisions for the person unilaterally, although this is not considered good practice. Guardianship is considered the “most restrictive” option. The course, titled “Lighting the Way,” teaches adults with disabilities legal options associated with various civil rights to access this course, go to fddc.org, supportingchoices and guardiantrusts.org.

3. Guardianship and Guardian Advocacy: Guardian Advocacy is unique to Florida. This option is considered less restrictive than guardianship, and it is less expensive and time-consuming. Guardian Advocacy is available only to adults diagnosed with a developmental disability and who lack the decision-making ability to perform some, but not all of the tasks necessary to care for him or herself or property. There are only minor differences between Guardianship and Guardian Advocacy. Guardianship is the most restrictive option for decision-making. When a person is assigned a legal guardian, some or all of the person’s rights are removed by the Court and these functions are carried out by the guardian. The legal guardian begins with any adult petitioning the Court that the person in question does not have the capacity to exercise his or her rights. The Court process includes the appointment of an examining committee, attorney, and a court hearing. Guardian Advocacy is available only to adults diagnosed with a developmental disability and who lack the decision-making ability to perform some, but not all of the tasks necessary to care for him or herself or property. There are only minor differences between Guardianship and Guardian Advocacy.

4. Restoration of Capacity: If a person has been assigned a guardian to execute some or all of his or her rights, there is a legal option for having some or all of the rights restored. This would become an option if the person under guardianship has developed capacity to exercise these rights since their guardianship proceedings. Restoration of rights is a process that must go through the Court.

- Light to seek or retain employment

Regardless of ability every adult automatically acquires certain legal rights at the age of 18, which cannot be taken away except through legal guardianship proceedings. Even then, there is a constitutional guarantee of privacy in this area. To access this course, go to fddc.org, supportingchoices and guardiantrusts.org.

- Light to determine住宅

Right to receive medical and mental health treatments

- Right to be informed about social environment or social aspects of the person’s life

- Right to speak

- Right to see and defend himself or herself

- Right to manage resources and make dispositions of property

- Right to apply for governmental benefits

- Right to travel

- Right to have a driver’s license

- Right to live

- Right to choose

In Florida, there are various legal solutions including power of attorney, medical proxy, or guardianship.
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