



Decision-Making Options for Young Adults with Disabilities

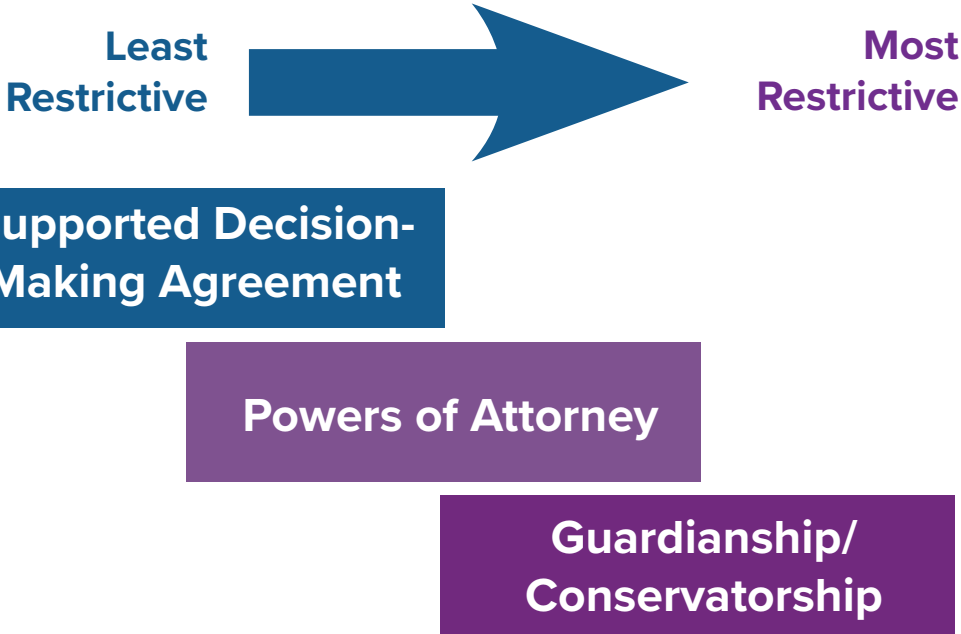
My Child is Turning 18. What do I do?

Turning 18 is a big deal. Your child becomes an adult at 18 and all the privileges and responsibilities of adulthood transfer to them. This includes the authority to make decisions for themselves. This is a good thing. It is the gateway to adult life. But it can also be a scary time if you and/or your child believe they are not ready or able to make their own decisions. Thankfully, there are options available.

Everyone needs some help making decisions. Some people may ask others their opinion on whether to take a job, or they may have someone who helps them with their taxes or understand a contract. But some people with disabilities may need more or different kinds of supports. They may need help in making important decisions or if they have a significant mental or cognitive disability, they may need someone to make decisions on their behalf. For example, individuals with significant intellectual disabilities or dementia may need a substitute decision-maker.

It is best to use the least restrictive option available to you and your adult child if they need help making decisions. That way your child's rights as an adult will be preserved.

Here are important options from LEAST RESTRICTIVE to MOST RESTRICTIVE.



Contact your SC Parent Training
and Information Center

1-800-578-8750

Para español 1-888-808-7462



[Resource Links](#)



Guardianship and Conservatorship Procedures
Getting Ready for Age of Majority
Supported Decision-Making and Alternatives to Guardianship
PEATC Resource on Supported Decision-Making
SC Supported Decision-Making
Sample Power of Attorney
SC Supported Decision-Making Manuals
National Resource Center SC Supported Decision-Making

Decision-Making Options for Young Adults with Disabilities

Supported Decision-Making Agreements (SDMAs)

Supported decision-making can be informal or formal. If formal, the person with the disability enters into an agreement with supporters they choose. It can be a written plan and is changed as needed. There is no court process involved. An SDMA can cover health, finance, education, employment, housing, and more. The person and their supporters talk about the types and levels of supports needed. Supporters help inform the individual, ask questions, and go over options, but the individual with the disability makes the decisions and maintains their rights.

Powers of Attorney (POA)

Powers of Attorney are a form of supported decision-making. Under a POA, the person with a disability authorizes another individual (parent, spouse, friend) to make decisions on their behalf in certain circumstances. There are educational POAs, healthcare POAs, financial POAs, and general POAs which are more global in their authority. Some POAs are in effect all the time; other POAs only go into effect if the person becomes incapable of making the decision (e.g., they were in a car accident and are not conscious.) For a POA to be legal, the person with a disability must be competent to sign it. This means they must know what they are signing and understand the authority they are granting under the POA.

Guardianship/Conservatorship

Guardianships and conservatorships are the most restrictive options. The individual with a disability is determined incapacitated (unable to make their own decisions) by a probate court and a guardian is appointed to make decisions on their behalf. There are full (**plenary guardianships**) in which the guardian makes all decisions, even up to the food the person can eat, the people they can see, where they live, etc. There are also **limited guardianships** in which a guardian is appointed for specific areas such as health care decisions. Under full guardianship, the individual is likely to **lose some or all their civil rights**, such as the right to vote, the right to enter contracts, and the right to marry. In South Carolina, an **Attorney for the Alleged Incapacitate Individual** is appointed to represent the individual's desires. This is different from the Guardian Ad Litem who makes recommendations to the Court. Some people with significant disabilities need guardianship, but it is a decision that should be entered into carefully. **Conservatorships** can be costly and difficult to reverse. They are a separate court proceeding in South Carolina. In this process, the probate court appoints a conservator to manage the estate and financial affairs of the incapacitated individual.

Educational Representative

An **educational representative** is a competent adult authorized to make educational decisions on behalf of an adult student that is determined to **NOT be competent** to make their own educational decisions.

The process in South Carolina involves a medical professional, not employed by the school division, certifying in writing that the **student is not able to adequately communicate their wishes, preferences, and needs concerning their education with or without reasonable accommodations**. They must include the basis for the determination and whether the inability to communicate is likely to last until age 21.

The school district must notify the student in writing of the determination and that an educational representative will be appointed. The student can challenge the designation and during the challenge, the educational representative cannot be used.

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