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PARENT INFORMATION CENTER OF DELAWARE

AGE OF MAJORITY (18 YEARS OLD) FOR STUDENTS RECEIVING SPECIAL EDUCATION SERVICES

Turning 18 is significant for any youth, but for a student receiving special education services, it brings with it an additional responsibility. This is the time that a student will discuss with their IEP team the rights they may assume when they turn 18, or what is also known as “the age of majority”.

So what does an IEP team need to do? The IEP team is charged with determining if a student is able to provide informed consent related to education decision-making. The team uses a guiding document (Educational Representative After Attainment of Age 18) developed by the Department of Education. The IEP team begins the “age of majority” discussion at least one year prior to the student turning 18, although they can and are encouraged to begin it even earlier and to revisit it with each IEP meeting.

Here are three questions that an IEP team must consider:

1. Is the student generally able to understand the basic components of their IEP?
2. Can the student use the information provided to make a decision?
3. Does the student understand that the student can say yes or no?

The IEP document is lengthy and the IEP process is not always easy to understand. This is compounded for students who may not have had much involvement with IEP meetings up until the “age of majority” discussion. So when asking the questions to determine the student’s ability to make informed decisions, be aware of posing the questions in understandable terms.

Is the student generally able to understand the basic components of her IEP?

Do you know that teachers and others meet regularly to help you in school? What do we talk about? Do you remember telling us about your strengths, career interests or courses you like? Give an example of extra help or an accommodation that you use in reading - do you think you still need to use a highlighter?

Can the student use the information provided to make a decision?

Do you remember making the choice of which career pathway to take? What do you do when you need help in math? Give an example of how you use information about your class schedule to make a decision.





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Does the student understand that the student can say yes or no?

Would you like an adult to continue to attend your IEP meetings to listen and support you? Would you like to make some decisions about school by yourself? Will you ask for help if you need it?

A student who is determined to **be able** to provide informed consent by the IEP team may choose to do one of two things:

1. The student can choose to assume and exercise her educational rights; **OR**
2. The student may voluntarily authorize an adult to become their Educational Representative, a person who will make special education decisions for them.

Students who assume their rights should still be encouraged to keep their parents and other team members involved in the process for support.

If, on the other hand, the IEP team finds that a student is **not able** to provide informed consent, the IEP team will appoint an adult to serve as an Educational Representative. Be assured though, that as a biological or adoptive parent or relative who has always supported your child, you will be given first priority to serving as your child's Educational Representative. And for children who do not have a willing and available adult or relative able to become their Educational Representative, a protection exists which permits the IEP team to have an Educational Representative appointed to the student by the Department of Education.

As a parent or advocate, always remember the power of the student's voice and how you can support a student's participation in the IEP process. Students who learn and practice self-advocacy will be better equipped when they turn 18 to effectively exercise their rights and work successfully with their IEP team. In Delaware, youth are required to be invited to their IEP meeting by age 14 or as they enter 8th grade. It is never too early, however, for youth to learn about self-advocacy.



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As parents and advocates, you are also teachers, role models and coaches. Here are 5 ways to introduce self-advocacy to a child to help them prepare for their IEP meeting and consequently, their future. Youth are attentive to your words and actions, so create opportunities to positively influence and grow their self-advocacy skills every day.

1. Have your child visually express 3 of their interests. This can be done using pictures, creating drawings with software applications or even making power point slides to present at the IEP meeting. Try this yourself and compare.
2. Ask your child to explain why a particular subject in school is difficult. Help your child to problem solve two strategies that they can use when encountering a challenge. Explain a strategy you use at your place of employment.
3. Teach your child to ask for help and to help others. This is an essential life skill and will also serve them well when working with their IEP or job related team members. Share a story about a time when someone helped you and how you helped someone else.
4. Allow a child time to practice a skill before they need to use it. In a comfortable setting with family or friends, encourage them to introduce themselves and talk about their achievements, frustrations and dreams. You can model and do the same.
5. Show your child how to listen when others are sharing information and opinions. Use a timer and make a game out of having them listen for 30 seconds while you talk without interruption and then switch places.



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AT A GLANCE

Age of Majority Discussion with IEP team:

- Team determines if student is able to provide informed consent related to education decision-making.
- Team starts with presumption that student is able to provide informed consent.
- Discussion must occur at least one year prior to the student's 18th birthday.
- Discussion can and is encouraged to begin sooner and to be revisited with each IEP meeting.
- Use guiding document (Educational Representative After Attainment of Age 18) developed by the Department of Education (DOE).

Age of Majority Questions for the IEP team to discuss:

- Is the student generally able to understand the basic components of her IEP?
- Can the student use the information provided to make a decision?
- Does the student understand that the student can say yes or no?

Age of Majority Decisions:

If the IEP team determines that the student **is able** to provide informed consent related to education decision-making:

- The student may choose to do one of two things: 1. The student can choose to assume and exercise her educational rights; **OR** 2. The student may voluntarily authorize an adult to become their Educational Representative, a person who will make special education decisions for them (use the Voluntary Grant of Authority form developed by DOE).

If the IEP team determines that the student is **not able** to provide informed consent, the IEP team will request that an Educational Representative be appointed.

- Priority given to parent or adult relative.
- If there is no willing and available parent or adult relative, the IEP team will notify DOE and request that an Educational Representative be appointed through the Surrogate Parent Program.

Age of Majority Paperwork for IEP team:

- Use guiding document (Educational Representative After Attainment of Age 18) developed by the Dept. of Education.
- If appropriate, use the Voluntary Grant of Authority form developed by DOE.
- Revisit document by 18th birthday to verify team decision has not changed.