

Educational Power of Attorney (Transfer of Rights)

One of the many changes that occurs when an individual with a disability reaches the age of 18 is the transfer of rights from the parents to the student in Special Education. Before the age of 18, the parent (or guardian) has many protected rights in making educational decisions for the student. Under federal and state law, when the student becomes an adult (in Virginia, this is age 18), he is presumed to be able to make his own decisions. Therefore, those protected rights that the parents have had transfer to the student.

What if the student is unable to make educational decisions? If the student has been declared incapacitated by a court and a guardian has been appointed, the guardian will make educational decisions for the student (unless the guardianship Order says otherwise). Guardians are required by Virginia law to consider the wishes of the individual and allow the student as much independence and self-determination as possible.

Is there a way to have someone make educational decisions for the student without going to court to get a guardian appointed? Yes. If two professionals determine that the student is incapable of making his educational decisions, the school may appoint an educational representative to make decisions. There are very detailed instructions for this process in Virginia Department of Education Regulations.

A resource guide can be found here:

http://www.doe.virginia.gov/special_ed/regulations/state/transfer_rights_students_disabilities.pdf

But what if I want my parents to continue to advocate for me? As an adult, we can choose to make our own decisions and we can also get help from anyone we choose. If you'd like your parents or another adult to make your educational decisions, you can fill out and sign an Educational Power of Attorney. This document allows the person you choose to receive notices of meetings, attend meetings and sign documents for you.



The following is an Educational Power of Attorney form you can use if you'd like to name someone to make educational decisions for you.

**DURABLE POWER OF ATTORNEY
FOR EDUCATIONAL DECISIONS**

I, _____ (full name), born on _____, and currently living at _____ (address), in the City/County of _____, appoint _____ (full name) as my attorney in fact or "Agent", to act in the place and stead and with the same authority as I would have under federal and state law regarding educational rights. I understand that I am giving my agent the following rights:

1. To receive timely notice of all meetings and evaluations.
2. To actively participate in any meeting involving my educational services or evaluations.
3. To review, approve and sign any document related to my education, including, but not limited to, Individual Education Plans.
4. To inspect and disclose information related to my educational services.
5. Request legal due process proceedings if a disagreement regarding my special education program arises.
6. Represent my interests in mediation to resolve disputes with the local school division

This is a Durable Power of Attorney and shall not terminate upon my incapacity. As long as I am a competent adult, I retain the right to participate in all decisions regarding my educational services. I do not forfeit any of these rights by executing this Power of Attorney.

This Power of Attorney shall remain in effect as long as I receive services under an IEP or I revoke or change it.

Signature of Student

Date

I attest that _____ (student) signed this Education Power of Attorney in my presence.

Witness Signature

Date

Witness Signature

Date