

Transition: What Happens When My Child Turns 18?



Outline of Presentation

- Vocational Assistance
 - Developmental Disabilities Board (DD)
 - Opportunities for Ohioans with Disabilities (OOD)
 - Individual Education Plan (IEP)
- Guardianship
 - What is Guardianship?
 - Are there alternatives?
- Financial Assistance
 - Supplemental Security Income (SSI)
 - Social Security Disability Insurance (SSDI)
- Special Needs Estate Planning
 - First Party Trusts
 - Third Party Trusts
 - STABLE accounts
- Planning for more Independence

Vocational Assistance

- School District should incorporate vocational training in IEP
- Developmental Disabilities Board
 - Many counties have work programs (Deepwood-Lake; Murray Ridge-Lorain)
- Opportunities for Ohioans with Disabilities
 - Works with DD Board to provide vocational training

IEP: Post Secondary Transition Planning

- Age 14: Must begin transition planning
- Age 16: Shift from course of studies to transition services
- Up to graduation or age 22
 - * Social Graduation *
- Student Involvement
 - * When they turn 18 *
- Agency Invitation with parent permission
- Current abilities → Future goals
- Fading accommodations and services

Ohio Family and Children First

Ohio Department of Education/Office for Exceptional Children

Opportunities for Ohioans with Disabilities (OOD: BVR and BSVI)

Ohio Department of Medicaid (ODM)

Ohio Department of Developmental Disabilities (DODD)

Social Security Administration (SSA)

Ohio Department of Mental Health and Addiction Services (OhioMHAS)

Ohio Department of Job and Family Services (ODJFS)

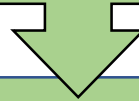
Elementary

Middle School

HIGH SCHOOL

POST GRADUATE

Age Appropriate Transition Assessments
Preferences Interests Needs Strengths



Post-Secondary Goals



1. Goals based on AATAs
2. Focus on what student will do after high school
3. Must include GOALS for...

Education

Training

Employment

Independent Living*

Common AATAs

Adaptive Behavior
Daily Living Skills
General and Specific Aptitude
Interest Surveys
Intelligence Tests
Achievement Tests
Self Determination
Assessment
Transition Planning Inventories

IEP Individualized Education Program

Kirtland Local Schools

CHILD'S NAME: _____ ID NUMBER: _____ DATE OF BIRTH: _____

5. POSTSECONDARY TRANSITION**POSTSECONDARY TRAINING AND EDUCATION****MEASURABLE POSTSECONDARY GOAL:**

This goal should be specific to Post-Secondary Training and Education.

This goal must be based on assessment data from an Age-Appropriate Transition Assessment.

Example: "After graduation, the student will...."

Age Appropriate Transition Assessment regarding Post Secondary Training and Education

(indicating student's needs, strengths, preferences and interests)

The Age-Appropriate Transition Assessment must address the student's: preferences, interests, needs, and strengths. Provide a summary of how the PINS align with the student's post-secondary goals.

Each assessment must include the following: assessment name, date given, person who administered the assessment (title), and results/implications of results.

Example: "On November 21, 2022, the COPS-PIC Picture Inventory of Careers was administered by the intervention specialist. Results indicate...."

COURSES OF STUDY:

This sections should include one of the following:

- "Curriculum based upon Ohio's Learning Standards"
- "Curriculum based upon Ohio's Learning Standards - Extended"
- Career Technical Education -- Explain the program.

NUMBERS OF ANNUAL GOAL(S) Related to Transition Needs:

List the number of the measurable annual goal that support the listed post-secondary goal.

TRANSITION SERVICE/ACTIVITY	PROJECTED BEGINNING DATE	PROJECTED END DATE	FREQUENCY	PERSON/AGENCY RESPONSIBLE
The district will provide the student with the opportunity to....	11/21/2022	11/20/2023	Single Occurrence	Intervention Specialist

TYPE OF EVIDENCE INDICATING THE TRANSITION SERVICE HAS BEEN COMPLETED

- A. Anecdotal Record
- B. Checklist
- C. Work Sample
- D. Rubric
- E. Other (list)

INDEPENDENT LIVING (as appropriate)

MEASURABLE POSTSECONDARY GOAL:

This goal should be specific to Independent Living.

This goal must be based on assessment data from an Age-Appropriate Transition Assessment.

Example: "After graduation, the student will...."

If the team agrees there is not a need for an Independent Living Goal, there must be data in the AATA that supports the decision. You can not simply say a student does not need a goal in this area. Ensure one of the components of the AATA addresses Independent Living.

Example: "Based on the results of the AATA, the IEP team has determined there is not need for an Independent Living Goal at this time."

Age Appropriate Transition Assessment regarding Independent Living

(indicating student's needs, strengths, preferences and interests)

The Age-Appropriate Transition Assessment must address the student's: preferences, interests, needs, and strengths. Provide a summary of how the PINS align with the student's post-secondary goals.

Each assessment must include the following: assessment name, date given, person who administered the assessment (title), and results/implications of results.

Example: "On November 21, 2022, the COPS-PIC Picture Inventory of Careers was administered by the intervention specialist. Results indicate...."

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COMPETITIVE INTEGRATED EMPLOYMENT

COMPETITIVE INTEGRATED EMPLOYMENT

MEASURABLE POSTSECONDARY GOAL:

This goal should be specific to Competitive Integrated Employment.

This goal must be based on assessment data from an Age-Appropriate Transition Assessment.

Example: "After graduation, the student will work as police officer...."

Age Appropriate Transition Assessment regarding Competitive Integrated Employment

(indicating student's needs, strengths, preferences and interests)

The Age-Appropriate Transition Assessment must address the student's: preferences, interests, needs, and strengths. Provide a summary of how the PINS align with the student's post-secondary goals.

Each assessment must include the following: assessment name, date given, person who administered the assessment (title), and results/implications of results.

Example: "On November 21, 2022, the COPS-PIC Picture Inventory of Careers was administered by the intervention specialist. Results indicate...."



Post Secondary Education

- Post Secondary Accommodations / Rehabilitation Act
- College Prep and Identification
 - ACT / SAT
 - College considerations: City size, sports, arts, etc.
 - School visits: Notre Dame and Kent
 - Exit IEP Meeting
- Vocational or Technical School

Summary of Performance

Summary of academic achievement

Summary of functional performance

Guidance for accommodations and supports that may be helpful in post secondary setting



Guardianship Terms

- Guardian
 - Person appointed by Probate Court to act on behalf of Ward
- Ward
 - Person for whom a guardian as been appointed
- Incompetence
 - Probate Court Order/Determination stating you have mental impairment caused by mental/physical ailment; developmental delay; chronic substance use

Requirements

- Ward incompetent
- Guardianship necessary
- No less intrusive method

Reasons for Guardianship

- Managing funds and property
- Medical
- Placement
- Programming
- Education

Types of Guardians

- Natural Guardian
- Guardian of Person
- Guardian of Estate
- Generally, if estate is more than \$25,000
- Limited Guardian
- Interim Guardian
- Emergency Guardian

Who is this Guardian?

- Over 18
- Competent
- Guardian of Person – no residence req't
- Guardian of Estate - Resident of state in general
- Unless named in written document such as will, Durable Power of Attorney or notarized statement
- Must be bonded by insurance company
- “Suitable”
- In general, agency can't be guardian
- Guardian must not have been charged or convicted of crime of theft, physical violence, sexual, alcohol, or substance abuse

Nomination of Guardian

- Parent may appoint guardian of minor in will
- Nomination of guardian for adult who is incompetent
 - Written designation – e.g. power of attorney
 - Witnessed or Notarized
 - Nomination in will is not sufficient

Out of State Guardian of Estate

- Court may appoint if nominated in
 - Will by a parent of a minor, or
 - Durable Power of Attorney, or
 - Writing that is notarized and witnessed (2111.121), or
 - If selected by a minor 14 years old or older (2109.21)

Procedure of Application

- Application – Probate Forms
 - https://www.supremecourt.ohio.gov/legalresources/rules/superintendence/probate_forms
- Notice to alleged Ward and next of kin
 - Next of kin could include spouse, children, parents, and siblings.
 - Depends on who is living, e.g., if a child is applying to be guardian, child must notify other siblings and spouse of parent.
 - The other family have a right to file a competing application.

Procedure of Application

- Investigation
 - Personal contact by investigator
 - Notice of rights
 - Notice of hearing
 - At least 7 days prior to hearing

Hearing Rights of Potential Ward

- Counsel if requested
 - At Court expense if indigent
- Independent Expert Evaluation
 - At Court expense if indigent
- Family/Friends present
- Present evidence
- Cross-examine
- Transcript for appeal
 - At Court expense if indigent

Hearing Procedure

- Magistrate v. Judge
- Guardian must prove all elements
 - Incompetence
 - Need for Guardian
 - No less restrictive alternative
 - Guardian suitable
- Clear and convincing evidence

100%

Beyond Reasonable Doubt



Clear and Convincing

50%



Preponderance

Probable Cause

Suspects

Special Considerations

- Voting—the ward can vote, if able
- Driver's License—ward can drive, if able
- Marriage—need court and guardian approval
 - Guardianship of person terminates upon marriage
- Wills—need court approval

Post Appointment Reviews

- Every Two Years (see local rules)
- By Request of Ward (every year)
- Motion to Review (see local rules)
- Complaints
 - Filed by Ward or family

Probate Court

- Is the Superior Guardian
- Guardians always subject to Probate Court Orders and Rules

Guardianship Duties

- Act in best interests of ward
- Follow all Legal Requirements
- Submit all required reports
- Comply with court orders
- Get mandated training
 - Check local rules

Guardianship Duties

- Change of residence
 - Notice to Court if not more restrictive
 - Prior Written Permission if more restrictive
- Location of Legal Papers
 - Check local rules
- Report Changes in Ward's status

Guardianship Duties

- Complaints
 - Assist ward
 - Provide Response
 - Follow Court orders
- Report abuse/neglect
- Representative Payee for Social Security
 - Guardian of Person can apply to be Rep Payee
 - SS is not reported to Court since SSA administers

Termination or Removal

- Ward no longer incompetent
 - Proven by SEE
 - Termination
- Guardian resigns
 - New guardian appointed
- Guardian removed
 - Best interest of ward

Guardianship Avoidance

- Avoid Probate Court if possible
 - Saves time and money
 - Privacy

Guardianship Avoidance

- Healthcare Power of Attorney
 - Medical decisions and placement
- Durable General Power of Attorney
 - Financial, business, real estate, etc.
 - Can be as broad or narrow as you want
- Advance Directive for end-of-life care
- Educational Power of Attorney
- Revocable, though
 - Mental Health Directives

Special Issues

- Signed POA
- Become institutionalized or in psychiatric hospital
- Refuses doctor to speak to agent
 - Doctor must follow patient wishes because patient has not been deemed incompetent
- Only option is to apply for a guardianship
 - Can still keep DGPOA, if that has not been revoked

Supplemental Security Income (SSI)

- Federal income program for persons who are blind, or who have a disability and who do not qualify for Social Security payments
- SSI is intended to pay for the beneficiary's food and shelter
- 2023 Benefit:
 - \$914.00/mo. for single person
 - \$1,371.00/mo. for married couple
- Administered by SSA
- Can complete disability report online but must apply in person
- Means-tested
- Countable resources: Less than \$2,000.00 for unmarried; \$3,000.00 for married couple.
- Income: “Low”
- Transfer of assets will result in a loss of benefit eligibility for up to three years

SSI Eligibility

- Must be determined disabled (unless over age 65)
- Have monthly countable income under the applicable benefit amount (i.e. a single person must receive less than \$914.00/month)
 - First \$20.00 of monthly unearned income, first \$65.00 of monthly earned income, and one-half of remaining earned income are excluded from being counted.
 - Countable income will reduce benefit payment by that same amount.
 - Receiving free food or shelter (in-kind support) from another source will reduce SSI payment by 1/3rd
- Have countable resources under the applicable limit during each month benefits are paid.
- SSI recipients are categorically eligible for Medicaid.

Social Security Disability Insurance (SSDI)

- Federal income program for persons who are unable to work due to a disability.
- Is an insurance program funded through payroll taxes.
- Administered by SSA.
 - Can apply online at www.socialsecurity.gov
- No financial eligibility limits.
 - Must have earned enough work credits to qualify (typically 20 credits in 10 years immediately prior to becoming disabled; but can vary based on age)
 - If earned income is higher than SGA, will lose disability status.
 - No limit on unearned income.
- Monthly benefit amount based on average lifetime earnings and severity of disability. Can range from a few hundred dollars to several thousand per month.
- Payments begin five months after approval. 24 Months (two years) after first payment, recipient can enroll in Medicare.

DAC Child SSDI

- If child is disabled before age 22, and parent retires, is disabled, or dies, then that child will be eligible for SSDI based on parent's work history
- 50% while parent is alive
- 75% at parent's death
- Medicare eligible after two year probationary period

Special Needs Estate Planning

- To be eligible for Medicaid, Medicaid waiver, SSI, child must be below \$2,000 in assets at age 18.
- If more than \$2,000, then must spenddown, or utilize a Special Needs Trust or STABLE account
 - These have a Medicaid payback provision

Special Needs Estate Planning

- For estate planning purposes, we never recommend a special needs trust.
- Use a third party trust (wholly discretionary trust)
 - Administered the same, but no Medicaid payback provision

Living Independently

- Group home with DD Board
 - DD board doesn't use this term anymore
- Parents buy house, or join other families to buy house—brings in providers as necessary
- “Mother-in-law suites”
- Other housing solutions—Medina Creative Housing; Creative Living for Life at Ursuline; Solon Community Living

Advocacy

- Care Coordinator at Hickman & Lowder
 - Filling the gap on care after parents die
- Provides support to children and is a resource to answer questions and concerns.
- The go-between the Trustee and beneficiary



Thank
You

Hickman **Lowder**

Lidrbauch & Welch Co., L.P.A.

- [Hickman-Lowder.com](https://www.hickman-lowder.com)
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