

Lifespan Advocacy for Children and Adults with Autism



HPF Hinkle Prior & Fischer
Attorneys at Law

Representing people with disabilities and their families since 1974

The Law: The Individuals with Disabilities Education Act (“IDEA”)

- Primary federal law governing special education
- States implement IDEA by adopting rules and regulations that carry out federal law



IDEA'S GOAL

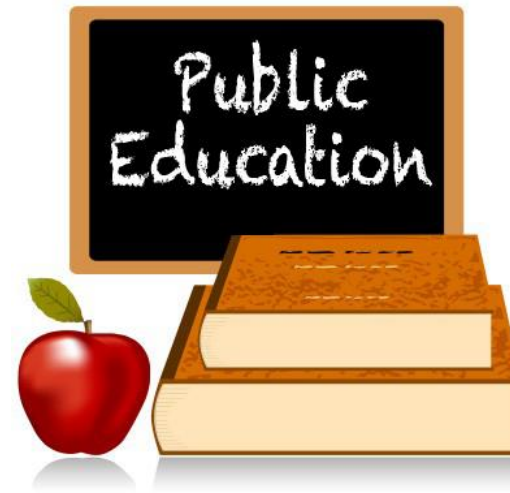
Prepare students for success after graduation in:

- Employment
- Further Education
- Independent Living



IDEA'S GUARANTEE

All students will receive a **Free Appropriate Public Education (FAPE)** in the **Least Restrictive Environment (LRE)**



BROAD SCOPE OF SPECIAL EDUCATION

A student's IEP must appropriately address *all areas of need* that result from student's disabilities that might interfere with the student's ability to succeed after graduation in employment, further education, or independent living

There are only *two exceptions* to this:

- Medical services (meaning provided by M.D.)
- Religious services

WHAT IS APPROPRIATE?

“APPROPRIATE” MEANS:

- IEP is designed to confer SIGNIFICANT and MEANINGFUL BENEFIT in ALL AREAS impacted by the student’s disabilities
- Goal is to allow student to PROGRESS in significant and meaningful ways to overcome limitations of disabilities



COMMON AREAS OF EDUCATIONAL NEED

- Academics
- Behavior
- Social Skills
- Emotional Functioning
- Self Care Skills
- Physical Skills (fine and gross motor)
- Sensory Skills

IDEA Dispute Resolution Procedures

- State Complaints
- Federal Complaints
- Mediation
- The Due Process Hearing System
 - Resolution Sessions
 - Settlement Conferences
 - Due Process Hearings
- Emergent Relief
- Appeals to State or Federal Court



TIME LINE FOR TRANSITIONING FROM SCHOOL TO ADULT SERVICES

- Age 14 - TRANSITION PLANNING IS PART OF THE IEP
- Age 16 - SCHOOL DISTRICT DEVELOPES POST SCHOOL GOALS AND BEGINS IMPLEMENTING
- Age 18 - APPLY TO DDD
- Age 18 - SSI AND MEDICAID
- Age 21 - DDD PROVIDES ADULT SERVICES



Common (and not-so-common) Approaches to Transition Planning

- Employment
- Job Sampling
- Vocational training
- Independent living skills
- Financial management
- Postsecondary education
- Assistance with adult services
- Community participation



GRADUATION CONSIDERATIONS



- When to accept a diploma
- Participation in the graduation ceremony
- Strategies to preserve special education services through age 21

APPLYING FOR DDD SERVICES

- **DDD Eligibility is Based on a Functional Test**
 - Mental or physical impairment
 - Manifest before the age of 22
 - Is likely to continue indefinitely
 - Substantial functional limitation in 3 of 7 areas of major life activity
 - Self-care
 - Expressive and Receptive Language
 - Learning
 - Mobility
 - Self-direction
 - Capacity for Independent Living
 - Economic Self-sufficiency



THE PROVISION OF ADULT SERVICES

- DDD provides Services to
 - Clinically eligible individuals
 - At least 21 years old **AND** at the end of the educational entitlement
 - Who have Medicaid
- **DDD says Medicaid = Services**

DDD Services Include:

Day programing

Job skill programs

Job coaching

Community and recreational supports

Residential Services / Community Care Program



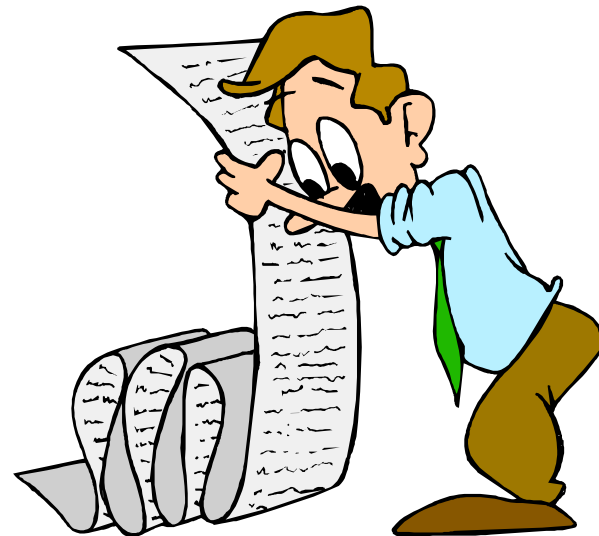
OPTIONS FOR OBTAINING MEDICAID ELIGIBILITY

- SUPPLEMENTAL SECURITY INCOME (“SSI”)
- ABD MEDICAID (Aged, Blind, Disabled)
- WORKABILITY
- DISABLED ADULT CHILD (“DAC”)



HOW DO YOU APPLY FOR THE CCP?

- Applications for the CCP can only be obtained from the Division
- Applications for the CCP are given to:
 - Individuals who reach the top of the CCP waiting list, or
 - Individuals who are determined to be emergencies



HOW DOES AN INDIVIDUAL GET ON THE COMMUNITY CARE PROGRAM WAITING LIST?

- The Default Rule
 - Youngest Parent turns 55 years old
- Exceptions:
 - Extreme behaviors
 - Intense Medical needs
- The wait is approximately 10 years long



WHEN IS AN EMERGENCY DETERMINED?

- The Division can determine an emergency exists, if
 - The individual is or will become homeless, or
 - If the individual is in imminent peril



WHAT TYPES OF RESIDENTIAL SERVICES DOES DDD PROVIDE?

- Group homes
- Supervised apartments
- Supported apartments
- In-home budgets



VOUCHERS

- HUD Section 8 (U.S. Dep't of Housing & Urban Development)
- New State Vouchers
- 70/30 split
- “Fair Market Value”
 - Possible Challenges
- The use of other assistance programs
 - Patchwork quilt



WHAT IS GUARDIANSHIP?

- Guardianship is a protective mechanism allowing one individual to make decisions for another individual, when the individual cannot make decisions for him/herself



WHO SHOULD SERVE AS GUARDIAN?

- Typically, both parents seek to serve as co-guardians
- As parents age, siblings are sometimes added as co-guardians
- A guardian should:
 - Have an interest in the individual with a disability
 - Be willing to learn about the individual's needs
 - It is helpful if the individual lives close to the “ward”



WHEN SHOULD YOU START THE GUARDIANSHIP PROCESS?



- At age 18 the law considers a child emancipated
- Even the parents of a child with a severe disability are not automatically the guardians of their child
- Only a judge can appoint a guardian for a person over the age of 18
- Parents should start the process when their child is about 17 ½ years old

GUARDIANS ARE RESPONSIBLE TO:

- Make decisions for the individual under guardianship
- These decisions are of a legal, medical and financial nature
- All decisions must be made in the best interest of the individual under guardianship
- Guardians are to encourage the individual to be as independent as possible

NAMING A SUCCESSOR GUARDIAN



- Parents should name a successor guardian in their wills
- The person named will need to be approved by the court before being authorized to act as guardian
- As parents age, petitioning the court to add a co-guardian should be considered

Thank you!

Questions?

- We offer free articles and information
- Free speaking events and workshops
- Locations in New Jersey and Pennsylvania

Please visit our website www.hinkle1.com

Or call

609-896-4200



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