

Age of Majority and Conservatorship

At 18-years-of-age educational rights transfer to students with disabilities who have an Individual Education Plan (IEP) and who are not conserved.

When a student becomes 18 years of age they are legally considered an adult and their rights to make important life decisions including living independently, financial management, continuing or not continuing with school, transfer from parent/guardian to themselves.

The Age of Majority describes when a child is considered an adult. With the 1971 ratification of the 26th Amendments to the U.S. Constitution, 18 year-olds were given the right to vote in federal elections and most states, including California, lowered the age of majority from 21 year-old to 18-years-old. (FC §6502)

At the age of majority, the student earns the right to:

- enter into binding contracts
- buy or sell property
- marry without the written consent of a parent/guardian or judge
- sue or be sued in their own names
- vote in state and local elections
- consent (or refuse) to all types of medical treatment
- join the military without parental consent
- paying income taxes
- inherit property outright

Although the Age of Majority does not, meant that a student has all of the rights and privileges available to adults, it does mean that the student will now be treated as an adult for most purposes.

Conservatorship

What happens if a student still needs to be under the protection of their parent or guardian?

Before the student reaches the age of 18 years old, the parent or legal guardian may apply through the court system for conservatorship.

Under conservatorship, the student is not considered to be legally incompetent. A person who is assigned as a conservator or limited guardian for another individual has been assigned limited decision-making responsibility depending on the needs of the individual. The limited guardian may only have responsibility for healthcare, financial, education or other specific rights. The individual retains all other rights not specifically assigned by the court to the conservator.

The process for applying for conservatorship must be initiated and completed by the parent or legal guardian. This process may be lengthy and beginning the application process a year in advance is advisable. The awarding of conservatorship is a court ruling and if awarded, the parent or legal guardian will be provided a document (ruling) that is recorded and filed in the court. The document will specify who the conservator is and which rights they maintain for the student. The student is not considered legally incompetent and maintains the rights not assigned to the conservator.

To ensure that procedural safeguards and educational rights remain compliant, it is essential that a copy of the filed conservatorship document is provided to the IEP team or case carrier.