

(11.13) When my child reaches the age of 18, will she begin to make decisions regarding the IEP or will I continue to be the decision-maker for educational purposes?

At age 18, educational decision-making authority transfers from the parent to the student, unless the student has been determined incompetent under California law. The school district must notify both you and your child of the transfer of rights and must provide a notice of procedural safeguards no later than one year before your child turns 18. [34 C.F. R. Sec. 300.520; Cal. Ed. Code Secs. 56041.5 & 56043(g)(3).] If the student has been declared incompetent by a court and the parent has been appointed as conservator, the parent can continue to make educational decisions for the student. However, if a student has not been determined incompetent by any court, she has the legal capacity to make educational decisions. The student has the option of making these decisions on her own or including parents in the IEP decision-making process. She may also assign educational decision-making authority to a parent if she chooses to do so. See Assignment of Educational Decision-Making Authority form, Appendices Section, [Appendix P](#).

Even if a court has not yet determined the student to be incompetent, a school district might take the position that a student is legally incompetent to make her own decisions — including the decision to assign her educational decision-making rights to a parent — and, therefore, needs to have a court-appointed “conservator” to make her decisions for her. However, the decision on whether an adult person must have a conservator is the court’s, not the school district’s.

You may wish to consult an attorney about the benefits and disadvantages of filing a petition for limited or full conservatorship with the superior court.