

CONSERVATORSHIP

A conservatorship is granted in a court proceeding where a superior court judge appoints a responsible person (“conservator”) to care for another adult (“conservatee”) who cannot care for themselves and/or their finances.

A limited conservatorship is specifically available for the benefit of adults with developmental disabilities. A limited conservator has the authority to do only those things that are granted at the time of appointment by the local superior court.

A limited conservator (usually a family member) may have the authority to:

- Decide where the conservatee will live;
- Manage the conservatee’s social affairs;
- Manage the conservatee’s financial affairs;
- Examine the conservatee’s confidential records and papers;
- Sign a contract for the conservatee;
- Give or withhold consent for medical treatments;
- Make decisions regarding education and vocational training;
- Give or withhold consent to the conservatee’s marriage; and/or
- Control the conservatee’s sexual contacts and relationships.

After the filing of a petition for limited conservatorship with the Superior Court, a proposed limited conservatee is assessed at a Regional Center to determine if he/she is indeed developmentally disabled. The Regional Center submits a written report of its findings and recommendations regarding the conservatorship to the court. While the Regional Center report is not binding, it provides the court with guidance about the appropriateness of the conservatorship. Additionally, the court appoints an attorney and an investigator to represent the adult with a disability as a means to make certain that the proposed conservatorship is of merit.

Note: the District may ask to see a copy of the court documents to ensure compliance with court orders.

When a student with disabilities reaches the age of 18, the District shall provide a notice of procedural safeguards to both the student and the parents of the student. All other rights accorded to a parent shall transfer to the student with disabilities. The District shall notify the individual and the parent of the transfer of rights prior to the student’s 17th birthday, pursuant to the Education Code. The parent of a student who has been determined to be incompetent under state law may seek conservatorship of the student.

Note: While the Education Code does not specify how educational rights may be transferred from an adult student to another individual, special education hearing decisions have repeatedly upheld the right of the adult student to transfer their decision-making authority to a “parent.”

(See e.g. *Student v. Fremont Union High School District* (2009) Order on Motion For Stay-Put, OAH Case No, 2009080222, 4) These decisions recognize the assignment as valid if:

- There is a clearly written designation of rights; and
- The transfer is to someone who meets the definition of “parent” under Education Code, section 56028.

Resource: Assignment of Educational Decision-Making Authority California Education Code Section 56041.5

<https://serr.disabilityrightsca.org/serr-manual/appendix/p-assignment-of-educational-decision-making-authority-california-education-code-section-56041-5/#>