

The SPED Team proposes that a statement regarding Supported Decision Making be added to the student Declaration of Rights found in 105 ILCS 5/14-6.10 of the Illinois School Code to ensure that all students with disabilities are aware that they have this right per **HB3849**.

1. Possible SHORT title (I will suggest the short title to LRB if it makes the cut)

Supported Decision Making in the IEP

2. Indicate if the bill is new/amendment:

An amendment to Declaration of Rights found in 105 ILCS 5/14-6.10 of the Illinois School Code.

3. A brief, but thorough explanation of the proposal. If it is an amendment to an existing law, please summarize the changes and rationale thoroughly

Add Supported Decision Making to 105 ILCS 5/14-6.10 to align with 34 C.F.R. § 300.320 (c) Transfer of rights at age of majority, which states that, "Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under § 300.520." Per the Supported Decision Making Act, the student has the right to select trusted advisors to aid in decision making and should be informed of this option and should be informed of this right during the Delegation of Rights Process.

Suggested language for 105 ILCS 5/14-6.10:

§ 14-6.10. Transfer of parental rights at the age of majority.

(a) When a student who is eligible for special education under this Article reaches the majority age of 18 years, all rights accorded to the student's parents under this Article transfer to the student, except as provided in this Section. This transfer of rights also applies to students who are incarcerated in an adult or juvenile State or local correctional institution. Nothing in this Section shall be construed to deny a student with a disability who has reached majority age the right to have an adult of his or her choice, including, but not limited to, the student's parent, assist the student in making decisions regarding the student's individualized education program.

(b) The school district must notify the student and the student's parents of the transfer of rights in writing at a meeting convened to review the student's individualized education program during the school year in which the student turns 17 years of age. At that time, the school district must provide the student with a copy of the Delegation of Rights form described in this Section. The school district must mail the notice and a copy of the Delegation of Rights form to the student and to the student's parents, addressed to their last known address, if they do not attend the meeting.

(c) At the meeting convened to review the student's individualized education program during the school year in which the student turns 17 years of age, the school district will notify any student with an intellectual or developmental disability and the student's parents of the right to supported decision making per Public Act 102-0614 .

(d) Rights shall not transfer from the parents to the student under this Section if either of the following apply:

(1) The student with a disability who has reached the age of majority has been adjudged incompetent under State law.

(2) The student has not been adjudged incompetent under State law, but the student has executed a Delegation of Rights to make educational decisions pursuant to this Section for the purpose of appointing the student's parent or other adult to represent the educational interests of the student.

A student may terminate the Delegation of Rights at any time and assume the right to make decisions regarding his or her education. The Delegation of Rights shall meet all of the following requirements:

(A) It shall remain in effect for one year after the date of execution, but may be renewed annually with the written or other formal authorization of the student and the person the student delegates to represent the educational interests of the student.

(B) It shall be signed by the student or verified by other means, such as audio or video or other alternative format compatible with the student's disability showing that the student has agreed to the terms of the delegation.

(C) It shall be signed or otherwise manifest verification that the designee accepts the delegation.

(D) It shall include declarations that the student (i) is 18 years of age or older, (ii) intends to delegate his or her educational rights under federal and State law to a specified individual who is at least 18 years of age, (iii) has not been adjudged incompetent under State law, (iv) is entitled to be present during the development of the student's individualized education program and to raise issues or concerns about the student's individualized education program, (v) will be permitted to terminate the Delegation of Rights at any time, and (vi) will notify the school district immediately if the student terminates the Delegation of Rights.

(E) It shall be identical or substantially the same as the following form:

DELEGATION OF RIGHTS TO MAKE EDUCATIONAL DECISION

I, (insert name), am 18 years of age or older and a student who has the right to make educational decisions for myself under State and federal law. If I am a student with an intellectual and or developmental disability, I understand Supported Decision Making and know my right to a Supported Decision-Making Agreement per Public Act 102-0614. I have not been adjudged incompetent and, as of the date of the execution of this document. I hereby delegate my right to give consent and make decisions concerning my education to (insert name), who will be considered my "parent" for purposes of the Individuals with Disabilities Education Improvement Act of 2004 and Article 14 of the School Code and will exercise all of the rights and responsibilities concerning my education that are conferred on a parent under those laws. I understand and give my consent for (insert name) to make all decisions relating to my education on my behalf. I understand that I have the right to be present at meetings held to develop my individualized education program and that I have the right to raise any issues or concerns I may have and that the school district must consider them.

This delegation will be in effect for one year from the date of execution below and may be renewed by my written or other formal authorization. I also understand that I have the right to terminate this Delegation of Rights at any time and assume the right to make my own decisions regarding my education. I understand that I must notify the school district immediately if I revoke this Delegation of Rights prior to its expiration.

(insert name)

Student

DATE: (insert date)

Accepted by: (insert name)

Designated Representative

4. The reason/need for this bill. Include any qualitative and quantitative data to support/defend the need for this bill. Proposals without data will be harder to advocate for as a final list option or even to persuade legislators to sponsor

Per the Supported Decision Making Act all adults are presumed to be capable of making decisions regarding daily living and to have capacity unless otherwise determined by a court. Supported Decision Making allows a supporter to assist a principal with an intellectual or developmental disability in accessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement. Since 105 ILCS 5/14-6.10 states that a “student who is eligible for special education under this Article reaches the majority age of 18 years, all rights accorded to the student's parents under this Article transfer to the student” they should be notified of their right to a Supported Decision Making Agreement at that time.

Studies regarding supported decision making and transition:

“This study reports descriptive data from a national survey on guardianship and people with disabilities. The results indicate that regardless of who provides information about guardianship, and regardless of disability classification, full guardianship is consistently discussed most frequently while other options are rarely discussed. We describe implications for practice and provide recommendations. Specifically, supported decision making is described as one potential alternative to legal guardianship that, according to these data, is the least frequently discussed with parents, but which has the potential to avoid many of the legal and social pitfalls that guardianship presents. Limitations and current research needs are described.” [Guardianship and the Potential of Supported Decision Making With Individuals With](#)

[Disabilities - J. Matt Jameson, Tim Riesen, Shamby Polychronis, Barbara Trader, Susan Mizner, Jonathan Martinis, Dohn Hoyle, 2015 \(sagepub.com\)](#)

[IEP Development That Supports the Transition to Adult Life for Youth with Disabilities | Taylor & Francis Group](#)

5. A list of stakeholders (internal and/or external) who we would partner with on the bill (shared loads)

The following people sponsored the HB3849 bill: Rep. Lindsey LaPointe, Jonathan Carroll, Bob Morgan, Ann M. Williams, Martin McLaughlin, Terra Costa Howard, Jennifer Gong-Gershowitz, Dan Caulkins, David A. Welter, Curtis J. Tarver, II, Kelly M. Cassidy, Daniel Didech, Seth Lewis, Emanuel Chris Welch and Amy Grant, Sen. Sara Feigenholtz, Robert F. Martwick, and Chapin Rose

6. ANY fiscal implications to GAC or potentially to another agency (here is where Clinton Everetts should be consulted so, please reach out to him)

Supportive Decision-Making training is already a piece of **HB3849** and would be instrumental in assuring that schools knew about the option and presented the information to the students and families during the IEP process. There could be possible fiscal implications to assuring that schools are familiar with Supported Decision Making in order to pass that information along to students and families.

7. Anticipated Effective Date (be sure to consider what it would take for implementation should the bill pass and be signed into law)

Aug 1, 2023 allows time for training and implementation?

8. A list of probable Proponents (important for Roundtable scheduling)

Here is a list of voting for HB3849 that may be helpful
[10200HB3849sam001_05312021_052000C.pdf \(ilga.gov\)](#)

Other relevant legislation

Ill. Admin. Code tit. 23, § 226.690

This Section implements 34 CFR 300.520 and Section 14-6.10 of the School Code [105 ILCS 5/14-6.10].

a) When a student with a disability reaches the age of majority (18 years of age; see 755 ILCS 5/11-1) or becomes an emancipated minor pursuant to the Emancipation of Minors Act [750 ILCS 30] (except for a student with a disability who has been adjudged as a disabled person

pursuant to 755 ILCS 5/11a-2 or who has executed a Delegation of Rights that is in effect as provided in Section 14-6.10 of the School Code):

- 1) The school district shall provide any notice required by this Part to both the individual and the parents, and all other rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to the student; and
- 2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to a child who is incarcerated in an adult or juvenile, State, or local correctional institution.
 - b) Whenever rights are transferred to a student pursuant to this Section, the district shall notify the student and the parents of the transfer of rights.
 - c) All notices that are required under this Part and 34 CFR 300 shall be provided to the student and the parent after the student reaches the age of majority