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## High School Graduation: Legal Next Steps

*Once children reach 18 years old they are legally "adults", meaning that parents no longer have the same access to information or control over their children. Proper planning for the legal issues that arise with an 18 – 21 year old child can bring parents peace of mind.*

Planning for the next steps after high school graduation, including the college application process, can be stressful. After graduation occurs, many parents feel as though they are finally finished. Their child is ready to move on to the next phase of life, the hard work seems over, and the focus moves to enjoying a summer together and packing for the big transition at summer's end. However, many families are not aware of important legal issues affecting their 18-21 year-olds, including those who will be entering college, taking a gap year, entering the military, or pursuing other career opportunities. A few measures taken by parents and young adults can avoid potential problems come next year.





## Parents should consider:

**Durable Power of Attorney:** Generally, children who have turned 18 are legally adults and parents have no legal authority to act on their behalf. What happens if your child becomes temporarily or permanently incapacitated? What if your child is studying abroad and unavailable to sign a lease or to write a check from their bank account? A durable power of attorney can authorize a parent to handle financial matters, such as banking or signing tax returns, on behalf of the child, if the child is unavailable or becomes temporarily or permanently incapacitated. Designating one or both parents to act on the young adult's behalf through a durable power of attorney can eliminate the need to have a court appointed guardian. If the young adult's parents are separated or divorced it will be especially important to pin down which parent should handle financial matters on the child's behalf.

**Health Care Proxy:** A child over 18 has authority to make his or her own health care decisions. Information regarding the child's health cannot be disclosed to anyone other than the child. The Health Insurance Portability and Accountability Act of 1996 (known as "HIPAA") is a federal law significantly restricting medical professionals from disclosing medical information to unauthorized persons. A health care proxy can designate a parent or other person to make medical decisions for the child if they become incapacitated and can allow the agent to access the child's medical information. Without a health care proxy, parents' rights with respect to their child are very limited coming as a surprise to many parents who have accompanied their children to every doctor's appointment up to the time they leave home. As with the durable power of attorney, designating which parent has primary authority to act on the child's behalf (and who is to be an alternate agent) can be especially important if the child's parents are separated or divorced.

- Many colleges offer their own "HIPAA" forms to authorize a child's parents to obtain the child's health care information even if the child is not incapacitated. This can be especially important when dealing with mental health issues.
- Now is also a good time to make sure your child knows his or her own medical history (allergies, chronic conditions, vaccines), to have your child's medical records sent to the college health center, and to pack a first aid kit with proper contact information for your child.



**Will and Trust Instruments:** For young adults who have significant assets of their own, it is important to consider whether a will or revocable trust is necessary. If a person dies without a will, the laws of intestacy determine how that person's assets will be distributed. If the young adult has no children of his or her own, intestacy laws would generally provide for distribution of the assets to his or her parents. From an estate planning perspective, this is usually not a favorable result since it will add to the size of the parents' taxable estate. A better alternative may be for the child's property to pass to his or her siblings (outright or in trust) or to other designated beneficiaries. The will or trust also allows your child to designate the person in charge of his or her assets.

- A revocable trust may also be a helpful and efficient vehicle to manage any investment assets held in the child's name. The young adult, his or her parents and others can administer the trust for the child's benefit and encourage the child to take an active role in investment and budgeting decisions. Assets held in the child's trust will not need to pass through probate.
- It is also important to consider any assets held for the child in Uniform Transfers to Minors Accounts (UTMAs) or Uniform Gifts to Minors Accounts (UGMAs) or any other accounts or inheritance that may have been established by grandparents. Often these terminate and are distributed directly to the child at age 18 or 21.



## Disclosure of Information / Waivers:

Most colleges and universities have policies restricting the release of a student's educational records to anyone except the student, unless the student gives written permission. This include grades, university bills, and medical records. The Family Educational Rights and Privacy Act ("FERPA") is a federal law restricting colleges and universities from releasing these educational records without the student's permission. Although FERPA allows for many exceptions to this non-disclosure rule, colleges may interpret the exceptions differently or may have their own more restrictive non-disclosure policies. Some schools provide waivers for the student's signature which allow the release of records to the student's parent. We recommend that parents look for these in the numerous forms that students receive over the summer. If they do not see them, parents may request information regarding the college or university's disclosure policies and waiver forms.

**Insurance:** Most college students can be covered by their parents' health insurance policies (be sure they have a copy of their insurance card), until the age of 26. In addition, many colleges also offer low-cost health care plans for students who are not covered by their parents' plans. It is important to check to see if medical services provided on or near the students college will be covered be a parent's insurance, and, if so, will be "in" or "out" of network. Many colleges also offer low-cost health care plans for students who are not covered by their parents' plans. Students are also usually covered by their parents' personal property and casualty insurance. Parents should also review their homeowner's policy to determine if their child's belongings would be covered when staying in a college dorm. In addition, if your child is renting an apartment off- campus, or their first apartment post-graduation, the lease may require that they obtain a separate insurance policy covering the contents of the apartments, often known as "renters insurance." Even if the lease does not require renters insurance, it still may be a good idea.

- Check with your agent regarding coverage under your auto policy: will your child have a car on campus? Is it in a different state? If not, could it reduce your current premium? Will they occasionally use others vehicles?



**“Life”:** While many parents have taught their children “the value of a dollar” long before age 18, if you have not discussed more complex financial matters with your children, we recommend that you do so now. Getting them used to the idea of bank accounts, check-writing, credit cards and related matters is also part of their education. If you are a parent who has been making annual gifts, you might decide to make your children aware of such gifts. If your son or daughter is working for the first time, he or she will need to think about state and federal taxes. Young adults with earned income can also start a Roth IRA account, a great way to save money for retirement. And, of course, as your child turns 18 it is important to remind him or her to register to vote and to remind your son to register with Selective Service (women are not required to register).

Graduating from high school is an important time and full of transitions, both obvious and not-so-obvious. Proper planning helps reduce risks associated with this critical time in a child’s life.



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