

## VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND

<b><i>TITLE: Transfer of Rights to Students Who Reach the Age of Majority</i></b>	<b>POLICY NUMBER: S003.1</b>
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### **Policy Statement:**

The Virginia School for the Deaf and the Blind (VSDB) will ensure that all rights accorded to the parent(s) under the federal *Individuals with Disabilities and Education Act* and the state *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* transfer to the student upon the age of majority (age 18).

### **Procedure:**

A student who has reached the age of 18 years shall be presumed to be a competent adult, and thus all rights shall transfer to the adult student, unless one of the following actions has been taken:

- The adult student is declared legally incompetent or legally incapacitated by a court of competent jurisdiction and a representative has been appointed by the court to make decisions for the student;
- The adult student designates, in writing, by power of attorney or similar legal document, another competent adult to be the student's agent to receive notices and to participate in meetings and all other procedures related to the student's educational program. The VSDB shall rely on such designation until notified that the authority to act under the designation is revoked, terminated, or superseded by court order or by the adult student;
- The adult student is certified as unable to provide informed consent. The VSDB shall notify the parent(s) and the student of the following: that educational rights will transfer from the parent(s) to the student upon the student reaching the age of majority; and that procedures exist for appointing the parent(s) or, if the parent(s) are not available, another appropriate individual to represent the educational interests of the student throughout the student's eligibility for special education and related services if the student is determined not to have the ability to provide informed consent with respect to the educational program.
- The adult student, based on certification by written order from a judge is admitted to a facility for the training, treatment and habilitation of persons with intellectual disabilities.

The VSDB shall include a statement on the IEP (beginning at least one year before the student reaches the age of majority) that the student and parent(s) have been informed of the rights that will transfer to the student on reaching the age of 18.

The Virginia School for the Deaf and the Blind may continue to invite the parent(s), as appropriate, as bona fide interested parties knowledgeable of the student's abilities, to

participate in meetings where decisions are being made regarding their adult student's educational program. The adult student may invite the student's parent(s) to participate in meetings where decisions are being made regarding the student's educational program.

If the VSDB receives written notification that the student is unable to provide informed consent, the VSDB shall contact the placing local school division to designate the parent(s) of the adult student to act as an educational representative of the adult student (unless the student is married, in which event the student's adult spouse shall be designated as educational representative). If the parent(s) or adult spouse is not available and competent to give informed consent, the VSDB shall designate a competent individual from among the following: adult brother or sister; adult aunt or uncle; or grandparent. If no family member from the previous categories is available and competent to serve as the adult student's educational representative, then a person trained as a surrogate parent shall be appointed to serve as an educational representative by the VSDB.

<b><i>Rescission:</i></b> <b>Effective Date: May 2010; Revised: September 16, 2015</b> <b>BOV Approved: December 10, 2015</b>
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