

Developing Abilities and Restoring Rights

A Guide for Supporting Persons with Disabilities

(Part of the Developing Abilities and Restoring Rights Series)



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Preface

The Florida Developmental Disabilities Council (FDDC) strongly believes that persons with disabilities should be actively involved in all decisions so as to allow them to live and work as independently as possible within their communities. To fully support people to lead the lives to which they are entitled, the FDDC recognizes the need to raise awareness of ways to develop abilities in the area of legal rights among persons with disabilities. For individuals who are under guardian advocacy or guardianship, the FDDC also recognizes the need to provide information on restoring rights which have been removed by a court.

The FDDC and Guardian Trust are sponsors of the *Developing Abilities and Restoring Rights* series which is designed to support the goal of the FDDC to provide educational materials in the area of legal rights. The series includes:

- *Developing Abilities and Restoring Rights: A Workbook for Persons with Disabilities*
- *Developing Abilities and Restoring Rights: A Guide for Supporting Persons with Disabilities*
- *Developing Abilities and Restoring Rights: A Manual for Legal Professionals*



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Introduction

The purpose of this *Guide* is to be an instructional companion to *Developing Abilities and Restoring Rights: A Workbook for Persons with Disabilities (Workbook)*. Persons using the *Workbook* may have a **developmental disability**, an acquired disability, an age-related disability or mental illness and want greater participation and involvement in decisions related to their lives. The *Workbook* is designed to help individuals identify the level of involvement in decision-making desired, as well as build abilities in each **civil right** so as to achieve that level. In the case of persons under **guardian advocacy** or **guardianship**, increasing the person's abilities may lead to the restoration of some or all rights removed during that court process.

If you are reading this *Guide*, you are either interested in assisting someone to become more involved in making decisions or you have been asked to support and assist someone who wants to become more involved. You may be a parent or other family member, **guardian advocate**, **guardian**, friend, teacher, **service provider**, **support coordinator**, or community professional.




The *Guide* will prepare you to assist someone using the *Workbook* by providing the following information:

- general information related to civil rights;
- a summary of legal options available under Florida law to assist persons with decision-making;
- a review of **self-determination**;
- instructions and resources to help you assist someone with the *Workbook* who wants to build his or her abilities; and
- a glossary of terms used within the *Guide* and the *Workbook*.

For purposes of this *Guide*, you will be referred to as an *Assistant*. The person you are either assisting or going to be assisting will be referred to as the *User*.

As teacher, facilitator and supporter, a good *Assistant* can assess how best to help the *User* by:

- being warm, enthusiastic, supportive and respectful of the *User*;
- focusing on small accomplishments so that the *User* can build skills and self-confidence;
- allowing the *User* to practice newly acquired skills and partner in his or her successes;
- emphasizing accomplishments and view mistakes as learning opportunities by setting high expectations for the *User*;
- having good basic knowledge of the subject matter or being willing to partner with others who can better assist the *User*;
- being organized, flexible, patient and an active listener; and
- promoting interaction (inviting questions and conversation with the *User*).

Icons are used in this <i>Guide</i> to indicate specific, helpful information.	
	Identifies additional resources to expand your knowledge.*
	Identifies an important idea or warning.
Bold	Identifies words in bold defined in the Glossary.
	Identifies tips to consider when working with a <i>User</i> of the <i>Workbook</i> .

*Resources listed in this *Guide* are not intended as an endorsement. We disclaim any and all warranties, including accuracy, completeness, or validity of the data, and assume no liability or responsibility for any errors or omissions in the information contained. We do not warrant either expressly or by implication any organization, product or service appearing as a resource. Also, this list is not intended to be used as a tool for verifying the credentials, qualifications, or abilities of any organization, product or service. We strongly urge *Assistants* using the *Guide* to conduct their own research of any organization, product or service. We also recommend that *Assistants* exercise independent judgment and request references when considering a resource associated with diagnosis, treatment, or the provision of any service.

Foundational Concepts

The following information is provided as a foundation on which to build your knowledge of civil rights, various options available to assist someone with decision-making, as well as the concept of self-determination. The *Assistant* should become familiar with these topics prior to supporting someone using the *Workbook*.

Civil Rights



Civil rights are laws that protect our fundamental freedoms and privileges and include **due process** and freedom from discrimination. It is important for you, as well as the *User*, to understand which of our civil rights can never be removed by a court regardless of our age, race, disability or legal status.

Rights that Can Never be Removed by a Court

1. To be represented by an attorney
2. To have access to a court
3. To receive a proper education
4. To be free from abuse, neglect and exploitation
5. To remain as independent as possible
6. To receive necessary services and rehabilitation
7. To be treated humanely, with dignity and respect

The next chart identifies rights that can be removed by a court during the guardian advocacy or guardianship process.

Rights that Can be Removed by a Court

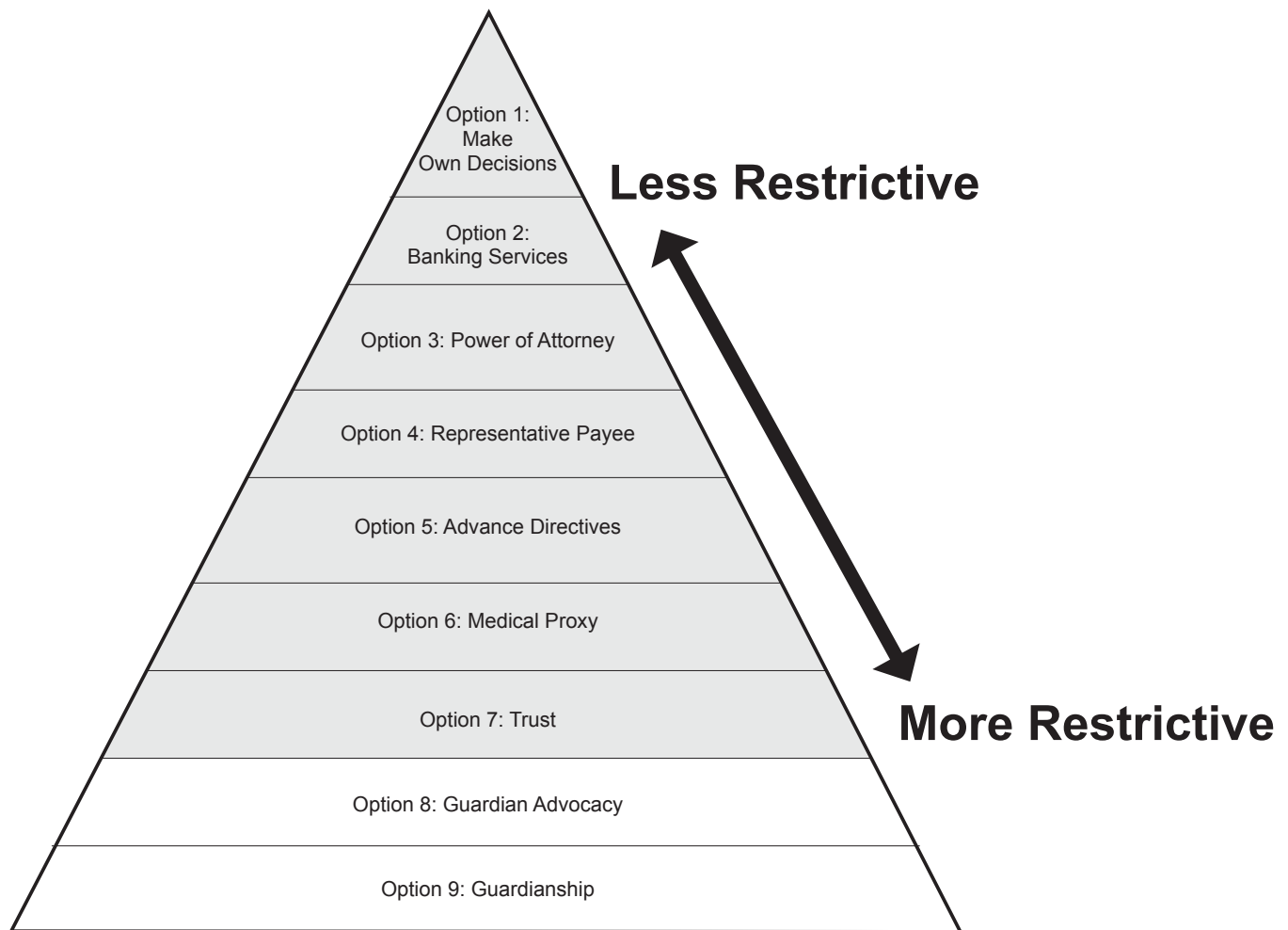
1. The right to marry
2. The right to vote
3. The right to travel
4. The right to apply for a driver's license
5. The right to seek and retain employment
6. The right to apply for government benefits
7. The right to decide living arrangements
8. The right to consent to medical and mental health treatments
9. The right to manage money and property
10. The right to decide social aspects of life
11. The right to contract
12. The right to sue and defend lawsuits



The Florida Developmental Disabilities Council provides information about civil rights in the publication titled, "*Lighting the Way to Guardianship and Other Decision-making Options.*" For a free copy, go to: www.fddc.org, Council Resources, Legal & Reference.

Legal Options for Decision-Making

There are various options that can be used to provide an individual assistance with decision-making. The triangle below displays these options and lists them in order of less restrictive to more restrictive. Court action is required for Options 8 and 9 only.



As noted in the triangle, these options for decision-making include:

- Option 1: Making own decisions with the assistance of others (sometimes referred to as **supported decision-making**).
- Option 2: Utilizing various banking services (such as a joint account, co-signer on bank account, signer with no ownership, direct deposit, online banking and prepaid credit cards).
- Option 3: Designating a **Power of Attorney (or Durable Power of Attorney)** which delegates decision-making to another without losing the right to make own decisions. The *User* should be aware of which rights are **delegable rights**.
- Option 4: Assigning a **Representative Payee** (an individual or agency who receives and manages these federal benefits: **Social Security Disability Insurance (SSDI)**, **Supplemental Security Income (SSI)** or **Social Security Retirement Benefits**).

- Option 5: Making use of Health Care **Advance Directives** such as a Living Will and **Health Care Surrogate** which designate who can manage an individual's health care when the person is unable to make health decisions.
- Option 6: Identifying a **Medical Proxy** is possible when no advance directive has been established, the person lacks **capacity**, and a medical decision is needed. A list of the order of priority of persons who can make health care decisions for an **incapacitated person** or a person with a development disability is available under Florida law.
- Option 7: Creating a **Trust**, which is a legal instrument that gives someone authority to manage property for the benefit of another person. There are many different types of trusts, including special needs trusts. Special needs trusts allow trust funds to pay for extra needs of an individual while protecting public benefits eligibility.
- Option 8: **Guardian Advocacy** is unique to Florida, and is an alternative to guardianship that is only available to individuals with a developmental disability. This option, generally, takes less time and is less expensive than guardianship. Under Section 393.12, Florida Statutes, the individual must have a diagnosis of a developmental disability and must lack the decision-making ability to perform some but not all of the tasks necessary to care for his or her person, property, or estate. Guardian advocacy is established through a court process. **Letters of Guardian Advocacy** are issued by the court identifying which rights have been removed as well as which rights are delegated to the guardian advocate.

While there are a few differences between guardian advocacy and guardianship, the authority given by the court and the powers and duties defined in the statutes are the same.

- Option 9: **Guardianship** is the most restrictive option for decision-making. Chapter 744, Florida Statutes:
- states that adjudicating a person totally incapacitated without considering less restrictive options deprives persons of all civil and legal rights and may be unnecessary; and
 - establishes a system that permits incapacitated persons to participate as fully as possible in all decisions affecting them.

Florida's Guardianship Law requires two steps to place a **person under guardianship**:

1. an incapacity determination; and
2. the appointment of a guardian.

If the judge finds that the person lacks capacity to exercise one or more rights, a guardian will be appointed. The judge will issue three orders:

1. **Order Determining Incapacity** - identifies which specific rights have been removed from the person now under guardianship.
2. **Order Appointing Guardian** - identifies who is appointed guardian.

3. **Letters of Guardianship** - identifies which rights are delegated to the guardian to exercise for the person under guardianship.

Persons with disabilities are sometimes placed under guardian advocacy or guardianship because families, the courts, or the state perceive the need to safeguard the health and welfare of a person who has a disability, a person whose capacity has diminished, or a person who is in danger of exploitation. While this situation is not unique to Florida, our state's laws do contain better safeguards to ensure this most restrictive option is utilized only when appropriate.



Florida law protects our civil rights by requiring the least restrictive decision-making option to always be considered first. This is true not only prior to having a court remove any rights, but even if guardian advocacy or guardianship has been imposed.

Florida law requires guardian advocates and guardians to annually report the following information:

1. a summary of activities that were undertaken in an effort to increase the capacity (ability) of the individual under guardianship;
2. whether the person under guardianship is capable of having some or all of his or her rights restored; and
3. if the person is capable, which rights are being sought to restore.

It is important to remember that persons with disabilities may gain or regain capacity over time with physical development and life experiences such as education, social interactions and community involvement.



The Florida Developmental Disabilities Council provides information about least restrictive alternatives for decision-making including guardian advocacy and guardianship in the publication titled, "*Lighting the Way to Guardianship and Other Decision-making Options.*" For a free copy, go to: www.fddc.org, Council Resources, Legal & Reference.

Self-Determination


Self-determination is a practice that leads a person to make choices and decisions based on his or her own preferences and interests, to monitor and regulate personal actions, and to set goals and take the initiative to reach those goals. At a practical level, self-determination involves giving people with disabilities greater control over their own lives. The practice of self-determination promotes achieving goals and acquiring skills and resources necessary to participate fully and meaningfully in society. It also allows for learning from mistakes.

- Self-determination is a philosophy that recognizes that people with disabilities are valuable, capable people and deserve to be treated with respect and with the same consideration that we all expect. Having the right, opportunity, and power to make meaningful choices is key to self-determination.

- Often people with disabilities face limitations on choices about where to live, who to live with, how to spend time and money and even what to eat. Real choice is about being able to choose from the same wide variety of lifestyles, goals, and preferences that others have. To achieve self-determination, people with disabilities must have ownership over their lives.

Regardless of a person's legal status (even for individuals under guardian advocacy or guardianship), the person with a disability should be meaningfully involved in making decisions and the person's wishes and preferences should be followed to the greatest extent possible. For an individual receiving decision-making assistance, the individual should participate in decisions that are made about him or her, and be allowed to face the consequences of those decisions. To move toward self-determination, the individual may need to rely on the support of others when decisions are being made and to understand the consequences of those decisions.

- The opportunity to expand one's experiences, make decisions, and deal with the results, ultimately helps the individual grow and develop in ways that could not happen if all the choices were made by someone else. The health and safety of an individual is always a consideration, but the individual should still be involved in decision-making.
- Communication of one's interests, needs, thoughts and desires is a skill that must be developed and utilized so as to be meaningfully involved in decisions related to one's life. (Communication refers to all types of communication: written, oral, and non-verbal.)
- Learning and practicing self-determination skills improves the potential for a more meaningful life.

 The National Gateway to Self-Determination provides resources, information and research on best practices for self-determination. For more information, go to: <http://www.ngsd.org/everyone/what-self-determination>

The Center for Self Determination provides resources and information on self-determination. For more information, go to: <http://www.centerforself-determination.com>



How To Use The *Guide* With The *Workbook*



As an *Assistant*, it is important to be familiar with the contents of *Developing Abilities and Restoring Rights: A Workbook for Persons with Disabilities* in order to better assist and support the *User*. The *Workbook* is designed as a tool to assist the *User* to develop abilities and build independence. It is a three-ringed notebook, which allows the *User* to document activities completed, as well as keep all

information in one place. It is up to the *User* to decide if assistance is needed to complete the various parts.

This part of the *Guide* addresses each chapter of the *Workbook* with a description of the contents, additional support information, as well as tips on how you, the *Assistant*, can help and support the *User*.



- 1. Remind the *User* that the *Workbook* can be completed with your help or not. Reinforce that you are available to help, if needed.
- 2. Talk to the *User* about any accommodations needed to use the *Workbook*.
- 3. Depending on the *User's* ability to communicate, you may need to read or record information in the *Workbook*.
- 4. Allow the *User* to make mistakes! Mistakes are a chance to learn and grow as the *User* learns new skills.

Workbook Chapter: "Introduction"

The *User* is introduced to the *Workbook* and the contents.

Workbook Chapter: "How to Use this Workbook"

The *User* is informed of the activities and information that are included throughout the *Workbook*. It provides a legend that identifies symbols along with their meanings. It is recommended that activities completed and information collected are kept in the *Workbook's* three-ringed notebook for use as a reference and guide by the *User* when making decisions.

The *User* is encouraged to ask for assistance with the *Workbook*, if needed.

Workbook Chapter: “About Me”

This chapter provides a self-assessment activity in which the *User* identifies personal likes, dreams and goals. It is designed to encourage the *User* to begin to interact with the *Workbook*. The information provided by the *User* can be shared with others and help with choices and decisions based on the *User’s* own preferences and interests. This chapter also begins to help the *User* develop and practice self-determination skills.



1. Depending on the *User’s* abilities, consider using magazines or photographs that depict likes, dreams, etc., so as to involve the *User* as much as possible.
2. Encourage the *User* to express personal preferences and interests and not those that have been promoted by others.

Workbook Chapter: “Tools and Strategies for Developing Abilities”

Workbook: “Section 1 Basic Concepts”

The following topics are detailed in this section of the Workbook and include activities for the *User* to complete:

- Self-Advocacy;
- Building Circles of Support; and
- Protecting against Abuse, Neglect and Exploitation.

Self-Advocacy

Self-advocacy means standing up for oneself. To be a **self-advocate** is to communicate, convey, negotiate or assert one’s own interests, desires, needs and rights. Self-advocacy is an important tool to achieve goals and build independence, as well as an important skill that supports a person’s lifelong success. Self-advocacy is also a way to communicate one’s right to be treated with respect and to have the right, opportunity, and power to make meaningful choices and to live as independently as possible.

For persons with disabilities, self-advocacy means:

- ✓ Being able to explain the individual’s disability;
- ✓ Knowing the person’s needs, strengths and weaknesses, and the accommodations needed;
- ✓ Knowing the person’s rights and responsibilities;
- ✓ Speaking up for one’s self;

- ✓ Knowing where to get help or whom to go to with a question - asking for what is needed;
- ✓ Using the resources available;
- ✓ Being able to listen to opinions of others; and
- ✓ Working with others to reach an agreement.



1. Review the self-advocacy activity examples in the *Workbook* with the *User* and answer any questions.
2. If the *User* has not completed the activity on Page 11, ask if your assistance is needed. If the activity is already completed, discuss it with the *User* so that he or she can practice self-advocacy skills with you.
3. Take the opportunity to discuss that we all have different abilities and experiences to share, as well as different areas with which we may need assistance.

It is important for persons with disabilities to develop self-advocacy skills. Family members, friends and caregivers, and you, as the *Assistant*, can teach and support the person in developing these skills and encourage the person to actively communicate desires and goals. Although the concept of self-determination is not included in the *Workbook*, the *Assistant* can promote that concept and by doing so, you are assisting the person to participate in decision-making, to build independence and to build self-advocacy skills.



Florida Developmental Disabilities Council's publication titled, "*Planning Ahead*" includes information on self-advocacy (see Chapter Three, *Becoming An Advocate*). Go to: www.fddc.org, Council Resources, to download a free copy.

The Florida Developmental Disabilities Council annually sponsors a leadership and advocacy training program that teaches self-advocates and parents to be community leaders. The Council also has a taskforce to help self-advocates and future self-advocates develop leadership skills. For more information, go to:

- <http://www.fddc.org/about/partners-in-policymaking>
- <http://www.fddc.org/about/self-advocacy-leadership>

"*10 steps to Effective Self-Advocacy*" is a resource provided by Disability Rights Florida. For a free copy, go to: <http://www.disabilityrightsflorida.org>, Disability Topics.

Additional websites providing self-advocacy information:

- www.disability.gov/resource/self-advocacy/
- www.apd.myflorida.com/selfadvocacy/

Building Circles of Support

Most of us have people in our lives to support us in everyday living and assist us in planning for the future. These are the people we go to for their advice and opinions. These individuals are called our **circle of support**. Our “circle” can include such people as our friends, family members, co-workers, and professionals; individuals we have chosen to be in our circle.

Having a circle of support gives people more confidence to succeed in achieving dreams, goals and desires. Without a circle of support, people can become isolated, and more likely be ignored, neglected and possibly abused. Having a broad circle of support opens the door to becoming a valued member of the community.



These two websites provide information about circles of support, examples of how others have built circles, and resources that can be purchased:

- <http://trainingpack.personcentredplanning.eu/index.php/en/circles>
- <http://www.inclusion.com/circlesoffriends.html>

The *Workbook's* Building Circles of Support activity instructs the *User* to write down the names of the individuals who are in his or her circle of support, or need to be asked to join. The *Workbook* includes a list of suggested circle of support members.



1. Discuss the following questions with the *User* when identifying potential circle of support members:

- ✓ Is this person in the *User's* life now?
- ✓ Does this person know and care for the *User*?
- ✓ Does this person know the *User's* likes, interests and preferences?
- ✓ Does this person know the *User's* strengths, capabilities and contributions?
- ✓ Does this person support the *User* to become more independent?
- ✓ Does this person assist the *User* in safeguarding his or her health, safety and welfare?
- ✓ Does this person support the *User* to be more involved in making decisions or participating in that process?

2. If the *User* cannot write, consider having the *User* place pictures on the Circle of Support list in the *Workbook* and then you can write the personal identification information.

Protecting Yourself against Abuse, Neglect and Exploitation

Assuring our health, safety and welfare is a primary consideration for all of us. In addition to criminal offenses such as theft, assault, battery, etc., Florida law includes additional offenses to protect children and **vulnerable adults**.

It is important that when individuals are more involved in making decisions about their lives, that they understand abuse, neglect and exploitation and recognize the warning signs.



The Florida Legislature recognizes that there are many persons in this state who, because of age or disability, are vulnerable and may be in need of protective services. Chapter 415, Florida Statutes, is known as Florida's Adult Protective Services Act and defines abuse, neglect and exploitation of a vulnerable adult.

Florida Statutes defines abuse, neglect and exploitation as follows:

Abuse - Any willful act or threatened act by a relative, caregiver, or household member which causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts and omissions.

Three types of abuse are defined in the *Workbook*: sexual, physical and emotional.

Neglect - The failure or omission on the part of the caregiver or vulnerable adult to provide the care, supervision, and services necessary to maintain the physical and mental health of the vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term "neglect" also means the failure of a caregiver or vulnerable adult to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others. "Neglect" is repeated conduct or a single incident of carelessness which produces or could reasonably be expected to result in serious physical or psychological injury or a substantial risk of death.

The *Workbook* defines both neglect and self-neglect. The *Assistant* should discuss the difference between exercising personal choices/preferences versus ignoring or refusing to address a need that can result in danger or harm to the person.

Exploitation - Occurs when:

1. A person who stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or
2. A person knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.

Two types of exploitation are described in the *Workbook*: financial and emotional.



1. The *Workbook* contains activities related to recognizing the signs of abuse, neglect and exploitation. As the *Assistant*, you may be asked by the *User* to discuss the warning signs, as well as review the activities.
2. You can assist the *User* to develop strategies on how to identify and prevent these situations, when to seek the advice of others and when to report offenders.
3. This is also a good opportunity to discuss making wrong decisions and how we can all learn from our mistakes. We all have fears about the repercussions of making mistakes, so this is an appropriate time to discuss the importance of taking time and thinking through situations before making decisions. The *User* may even want to talk with someone else in his or her circle of support for additional guidance.

Florida law requires that anyone who suspects abuse, neglect or exploitation of a vulnerable adult must contact the Florida Abuse Hotline. If the call is not accepted by the Hotline, call the police or sheriff.

If the call is accepted, investigators from Adult Protective Services (in Florida's Department of Children and Families) will visit each person involved to examine the validity of the allegation and determine the need for on-going protective supervision and services. The Hotline number is 1-800-962-2873 and is staffed 24 hours a day. If someone is found guilty of abuse, neglect or exploitation as defined above, criminal penalties may be imposed as defined in Chapter 825 of the Florida Statutes.



If the immediate safety of the person is threatened, call the police or sheriff first.



1. The *Assistant* should become familiar with the statutory definitions of abuse, neglect and exploitation as defined in Chapter 415 and Sec. 787.06, Florida Statutes.
2. If the *User* has already completed the activities, ask to discuss them together to demonstrate an understanding of the information provided.
3. If the *User* has not completed the activities, ask how you can assist him or her to complete.
4. Tailor the activities to match the abilities of the *User* to assure his or her involvement.

Workbook: “Section 2 Your Legal Status”

This section of the *Workbook* is designed to assist the *User* to clearly identify how decisions are made in his or her life especially in the area of civil rights. The *User* first completes activities that best describes how his or her decisions are currently made. The *User* will identify if:

- decisions are made with or without the help of others;
- the *User* has delegated the right to make one or more decisions to someone else; or
- a court has removed a right(s) and given someone the right to make one or more decisions (guardian advocate or guardian).

If the *User* makes his or her own decisions with help and advice from others in all areas, the *User* may go directly to the Civil Rights chart activity and focus on which rights the *User* wants to build abilities. (The Civil Rights chart in the *Workbook* can also be found in Appendix A of this *Guide*.)

If the *User* has given someone else the legal authority to make decisions, the *User* should include copies of the legal documents in the *Documents and Activities Checklist* chapter of the *Workbook*. The documentation should clearly:

- define the authority that has been delegated,
- identify the person’s name who now has authority,
- state the effective date of the delegation,
- identify the length of time of the delegation, and
- include the *User*’s signature.

Using the information in the documents, the *User* can complete the Civil Rights chart activity identifying which rights the *User* has delegated to someone else, and then focus on which rights the *User* wants to build abilities.



1. It is important to note that if the *User* has assigned a right(s) to someone else, using options 2 – 7, and is not as involved in the decision-making process as he or she would like to be, the *User* has the ability to name someone else as long as both parties are adults and have **capacity**.
2. If you have a question about the validity of any documents, encourage the *User* to seek legal advice.

If the *User* has identified that a court has removed rights from the *User* under the guardian advocacy or guardianship process, copies of the Letters of Guardian Advocacy or Guardianship should be included in the *Documents and Activities Checklist* chapter of the *Workbook*. If the *User* is under guardianship and has a guardian, a copy of the Order Determining Incapacity should also be added. These documents will help the *User* understand what rights have been removed and what rights have been given to someone else to exercise on behalf of the *User*.

Using the information in these documents, the *User* can complete the Civil Rights chart activity identifying which rights the court has removed and delegated, and then focus on which rights the *User* wants to build abilities.



Review the *Legal Options for Decision-Making* as well as the *Civil Rights* section related to delegable rights in the *Guide* (Pages 3 and 4). Your understanding of these various options is important when assisting the *User* with this section of the *Workbook*.

It is possible for the *User* to have delegated rights to different people, as well as have either a limited guardian advocate or limited guardianship. Using the information in these documents, the *User* can complete the Civil Rights chart activity identifying which rights the *User* has delegated to someone else, and which rights the courts have removed and delegated, and then focus on which rights the *User* wants to build abilities.



1. If the *User* has not completed the Civil Rights chart, ask if your assistance is needed. It may be necessary to help the *User* determine how decisions are made and if necessary, obtain copies of the documents where legal authority has been given to someone else or obtain copies of court documents if the *User* is under guardian advocacy or guardianship.
2. If the *User* has completed the Civil Rights chart, review any documents and then check the chart for accuracy.



Workbook: “Section 3 Developing Abilities by Civil Right”

This section focuses on developing abilities for each civil right that is delegable or **non-delegable**. These rights include:

Right to Marry

Right to Vote

Right to Travel

Right to Apply for a Driver’s License

Right to Seek and Retain Employment

Right to Apply for Government Benefits

Right to Decide Living Arrangements

Right to Decide Medical and Mental Health Treatments

Right to Manage Money and Property

Right to Decide Social Aspects of Life

Right to Contract

Right to Sue and Defend Lawsuits

The *User* will learn more about each right by completing activities so that the *User* may participate more fully in decision-making which could lead to greater independence. The Civil Rights chart in the *Workbook* may be helpful in discussing with the *User* which rights to work on and in what order of priority. If the *User* is under guardian advocacy or guardianship and is interested in restoration, the rights removed by the court may be the ones to focus on first. If there has been no court involvement, the *User* can merely pick and choose which right to build abilities.

Each civil right that can be removed by a court has been included and presented as follows:

Part 1 – Definition (of the specified right)

Part 2 – Activities (to build abilities related to exercising the right)

Part 3 – Restoration of Rights (general information regarding restoration of the right)

Part 4 – Next Steps (provides information on future actions whether or not rights are restored)

Since each right in the *Workbook* contains the same four parts, only general information about each part is provided in this *Guide*.



Resources are provided for each civil right in the *Workbook*. These resources are also included in the *Guide* on Page 25.

Part 1 - Definition

Review the definition of the right in the *Workbook* with the *User*, and answer any questions the *User* may have about the definition.

If the person has identified an individual who has authority to exercise this right, confirm this by reviewing the documentation. If the *User* is unsure, review the *Your Legal Status* section of the *Workbook*.

Part 2 - Activities

Information and activities related to the right are listed and designed to help the *User* develop abilities and become more involved in making his or her own decisions.



Here are ways you can assist the *User*:

- ✓ Review the information and activities.
- ✓ Encourage the *User* to complete the activities. If the activities are too simple or too complex, you may need to tailor them to better suit the *User's* abilities or interests.
- ✓ Discuss which activities the *User* wants to complete and how you may assist. Ask if there are any other activities the *User* may want to include that are not in the *Workbook*.
- ✓ Discuss bringing in others with specialized skills or knowledge, including someone in the *User's* circle of support.
- ✓ Develop a plan with the *User* to complete the activities. (Use the **Progressive Rights Restoration Plan** and sample for guidance in Appendix B and C; this plan chart can be used even if the right has not been removed by a court). This plan should include what activities will be done by the *User*, or with the help of you or others. This plan should also include a suggested timeline for completing the activities. Either you or the *User* should document this plan and note the date as each activity is completed. Keep the plan in the *Workbook*.
- ✓ Discuss with the *User* the importance of documenting all activities as described in the *Workbook*.
- ✓ Follow up on progress of the *User* until each activity related to the particular right chosen is completed.

Part 3 – Restoration of Rights

The *User* has another opportunity to identify whether or not the right has been taken away by a court. You can assist the *User* in determining his or her current legal status by reviewing the Civil Rights chart in the *Your Legal Status* section of the *Workbook*.

If it is determined that the right has been removed by a court, the *User* is directed to the *Restoration of Rights* chapter in the *Workbook* which details the process for restoring rights.



A “Restoration of Rights Process in Florida” chart is located in Appendix D. This chart summarizes and compares the process of restoration for guardian advocacy and guardianship.

Part 4 – Next Steps

This part includes actions or steps the *User* can take after a court has restored a specific right. If the right is not restored, the *User* is encouraged to continue to build his or her abilities.



1. Review the recommendations in the *Workbook* with the *User* and add any additional ones that you and the *User* identify.
2. Discuss what activities the *User* wants to do and how you may assist.
3. Discuss with the *User* involving others with specialized skills or knowledge.
4. Consider developing a plan with the *User* to complete these additional activities.
5. Encourage the *User* to complete the activities. Tailor the activities to best suit the *User's* abilities or interest. (Consider reviewing the resources provided to determine if the *User* is interested in using any of them.)

Workbook Chapter: “Restoration of Rights”

Neither guardian advocacy nor guardianship should be assumed to be a permanent arrangement. Over time, *Users* may change their life goals or gain or regain abilities that support greater control over their own decision-making.

There are legal procedures available to review a person’s legal status and consider restoring some or all of the person’s civil rights that were previously removed by the court. *Users* under guardian advocacy or guardianship are entitled to seek restoration through a well-defined process that includes due process protections.



As an *Assistant*, an understanding of Florida’s restoration process is important to know if you are supporting an individual who is interested in having one or more rights restored.

The step-by-step legal process to restore rights under Florida law is described below for guardian advocacy and guardianship.

Guardian Advocacy, Section 393.12(12), Florida Statutes:

1. File a petition with the court called a “Suggestion of Restoration of Rights.” A person does not need an attorney to file a Suggestion of Restoration of Rights. Any **interested person**, including the person with a disability, may file a Suggestion of Restoration of Rights with the court in the county where the guardian advocacy case is currently located.

A Suggestion of Restoration of Rights can be a simple, signed note or letter with the individual’s contact information requesting restoration or can include the following:

- the case number (this can be found on the person’s Letters of Guardian Advocacy);
- a list of each right requested to be restored; and
- **evidence** of the person’s increased abilities for each right requested to be restored; (It is a good idea to include a signed statement from a doctor or other medical provider that says the person should get right(s) restored, or
- a statement of good faith explaining why the person can now exercise each right without a guardian advocate.

Once the clerk of the court receives the Suggestion of Restoration of Rights, the clerk will send a notice to all interested persons about the Suggestion and the judge will appoint an attorney if the person has not hired one.

2. The person will meet with the attorney. The person may have decided to hire an attorney to file the Suggestion of Restoration of Rights, or the court will have appointed one to represent the person. Either way, it is important for the person to meet with the attorney.

3. Court Action:

- If the person's Suggestion of Restoration of Rights did include evidence, the judge will review the evidence and either restore the right(s) requested, or set a hearing to review additional evidence and testimony.
- If the person's Suggestion of Restoration of Rights did not include any evidence that supports the person's increased abilities, the judge will set a hearing to review evidence and hear testimony. The person's attorney will help identify and gather this evidence.
- If any interested person objects to the person's Suggestion of Restoration, the judge will schedule a hearing to review evidence and hear testimony.
- Depending on the judge's decision after review of evidence or after a hearing, the judge will enter an order denying the person's Suggestion or will enter an order restoring the right(s) requested to be restored.

Guardianship, Section 744.464, Florida Statutes:

1. File a petition with the court called a "Suggestion of Capacity." The person does not need an attorney to file a Suggestion of Capacity. Anyone, including the person under guardianship, may file a Suggestion of Capacity where the guardianship was filed.

A Suggestion of Capacity can be a simple, signed note or letter with the individual's contact information requesting restoration or can include the following:

- the case number (this can be found on the person's Letters of Guardianship);
- a list of each right requested to be restored; and
- a statement of good faith explaining why the person can now exercise each right requested to be restored.

Once the clerk of the court receives the Suggestion of Capacity, the clerk will send a notice to all interested persons about the Suggestion of Capacity. The judge will appoint an attorney if the person has not hired one. The judge will also appoint a physician to examine the person. The physician will examine the person to determine if the person has the ability to exercise the right or rights requested to be restored, and the physician will make a recommendation to the judge.

2. The person meets with the attorney. The person may have decided to hire an attorney to file the Suggestion of Capacity, or the Court will have appointed one to represent the person.
 3. The person meets with the physician. The physician will evaluate whether the person has regained capacity. This means the physician will perform an examination to determine if the person has gained enough ability to exercise the right(s). After the examination, the physician will file a report with the Court.
- ### 4. Court Action:
- If the physician recommends the restoration of the right(s) and no objections from any interested persons are filed, the judge will accept the physician's recommendation and the right(s) will be restored with no hearing.

- If the physician recommends restoration, but objections are filed by any interested persons, the judge will set a hearing where the person under guardianship, the person’s lawyer, any interested person, and any other individuals (such as the physician, family member, or the person’s guardian) will appear to discuss the person’s situation. After the discussion, the judge will make a decision as to either restore the person’s right(s) or not to do so.
- If the physician recommends no restoration, or someone else (such as the person’s guardian) objects in a timely manner, the judge will set a hearing where the person under guardianship, the person’s lawyer, and any other individuals (such as the physician and family member), will appear to testify as to the person’s situation. After the discussion, the judge will make a decision as to either restore the person’s right or not to do so.



See Appendix D for a table summarizing and comparing the restoration process under guardian advocacy (Section 393.12(12), F.S.) and guardianship (Section 744.464, F.S.)

It is important that the *User* understand that restoration of rights is available only when the *User* is under guardian advocacy or guardianship and wants one or more rights restored. (See *Your Legal Status* section of the *Guide* and *Workbook*.)

Also, if the *User* does decide to pursue restoration, consider using the form provided in Appendix B (***Progressive Rights Restoration Plan***) as a plan of action. It is designed to help the *User* document the steps to be taken in developing abilities, identify who will assist the *User*, and set targeted dates for completion. The comments column should include completion dates for each step. This plan may be provided to the *User*’s attorney as evidence that new abilities have been developed.



Additional ways in which you may assist the *User* in the restoration process:

1. Look over the Suggestion of Restoration of Rights or Suggestion of Capacity written by the *User* to assure it includes necessary information or assist the *User* in preparing the Suggestion if the *User* cannot write.
2. Discuss with the *User* that going through the restoration process does not guarantee that any rights will be restored and that his or her new abilities and skills will have to be demonstrated. The activities completed in the *Workbook* can be used to demonstrate the *User*’s abilities and skills.
3. Encourage the *User* to utilize a Progressive Rights Restoration Plan with a timeline for completing activities and assist the *User* in accomplishing these goals (see Appendix B and C).
4. Discuss with the *User* that:
 - a physician’s review and examination will occur;

- an attorney will be appointed by the court to represent the *User* in this case (or the *User* may hire his or her own attorney), and
 - the *User* may be asked to speak during the hearing process.
5. Ask the *User*:
- if he or she would like you to attend the meeting with the attorney or to provide transportation; and
 - to ask his or her attorney how else you could be of assistance.
6. Follow up with the *User* after he or she meets with the attorney. If the *User* shares the Progressive Rights Restoration Plan documenting abilities with the attorney, confirm that the *User* adds any new task(s) to the Plan that are identified by the attorney.
7. Assure the *User* has:
- marked his or her calendar to indicate the hearing date.
 - appropriate attire for the hearing.
 - an awareness of proper courtroom behavior.
 - transportation to the hearing.
 - asked whomever he or she would like to attend the hearing and discussed that with the attorney.
 - asked his or her attorney for any special accommodations needed to get into the courthouse or within the courtroom.

Because restoration is a legal process, your role as the *Assistant* may change when an attorney is representing the *User*. It is important to explain this to the *User* and assure him or her that you will remain as involved in this process as he or she would like you to be.

Additionally, you need to prepare yourself and the *User* for the two possible outcomes: (1) right(s) are restored; or (2) right(s) are not restored.

If the right(s) is not restored, the *User* needs to decide whether or not to continue to develop abilities and repeat the restoration process.

Remember, the primary goal of the *Workbook* is to develop abilities in order to be more actively involved in decision-making. Encourage the *User* to continue working on developing abilities. If the *User* chooses to continue working on restoration, utilize the Progressive Rights Restoration Plan by adding any new activities suggested by the judge or the attorney.

Workbook Chapter: “Documents and Activities Checklist”

This chapter of the *Workbook* is provided as a place for the *User* to include important papers, resource information and additional activities completed by chapter in the *Workbook*. Consideration must be given as to whether to include originals or copies of documents.

Workbook Chapter: “Glossary”

Just as in the *Guide*, words in **bold** are defined in the *Workbook* for the *User’s* benefit.



Resources

This listing of resources is provided as an informational service to help *Users* of the *Workbook* learn about available resources and organizations. The resources are listed in the same order as they appear in the Rights section of the *Workbook*. As the *Assistant*, you should consider reviewing these resources and provide suggestions to the *User* on the ones you feel could be of most benefit.



Right to Marry

These websites provide pre-marital courses for a fee:

- www.floridapremaritalcourse.com
- <http://flpremaritalcourse.com>
- www.floridamarriageprep.com

The Florida Bar provides information on wills and other legal documents. Go to www.floridabar.org and type in “wills” in the search bar.

To locate an attorney:

- Ask someone to recommend an attorney
- Call the Florida Bar Lawyer Referral Service (800-342-8011) or go to the Florida Bar website: <http://www.floridabar.org/lawyerreferral>
- Call a local Legal Aid or Legal Services office, or go to: <http://www.floridalegal.org/> and then click on “Lawyer Referral Service Online-Available 24/7.”

The federal government’s health care website provides information on health insurance for persons with disabilities. Go to: www.healthcare.gov/people-with-disabilities/coverage-options/

Visit the federal government’s health care blog to get information on reporting life changing events that may affect health insurance coverage. Go to: <https://www.healthcare.gov/blog/7-things-to-know-about-reporting-a-life-change/>

The *User* must be careful when searching for sex education materials online. Searching for materials about sex online could lead to inappropriate and dangerous websites. The information on the websites listed below have been written by or designed for persons with disabilities:

- The Riot is a website for and about self-advocates supported by the Human Services Research Institute. The Riot offers a newsletter, a blog where self-advocates can share opinions, an online art gallery, toolkits, games, and services to help individuals become stronger self-advocates. They cover topics such as healthy relationships, safe sex, and setting up peer support networks. For more information, go to: www.theriotrocks.org

- The Florida Center for Inclusive Communities offers a resource titled, “*Sexuality and Developmental Disabilities across the Lifespan.*” To access this resource, go to: <http://flfcic.fmhi.usf.edu/resources/materials/health.html>
- Activities and resources on sexuality and relationships can be found at the following websites:
 - <http://www.connectwc.org/dating-relationships-sexuality.html>
 - http://www.srcp.org/for_some_parents/developmental_disabilities/index.html

Parenting resources and programs can be found on the Department of Children and Families website. Go to: <http://www.myflfamilies.com/service-programs/child-welfare>



Right to Vote

These websites provide information about political parties:

- <http://www.scholastic.com/teachers/article/political-parties>
- <http://www.politics1.com/parties.htm>
- <http://www.ushistory.org/gov/5a.asp>

Disability Rights Florida provides voting information for citizens with disabilities. For more information, go to:

http://www.disabilityrightsflorida.org/resources/disability_topic_info/voting_rights_responsibilities

To find local supervisor of elections offices, go to:

www.election.dos.state.fl.us/soe/supervisor_elections.asp

The Florida Department of Elections provides information to citizens who need assistance with voting. For more information, go to:

<http://election.dos.state.fl.us/voting/disability.shtml>



Right to Travel

Lonely Planet, a travel publisher, provides travel tips. For information, go to:

<http://www.lonelyplanet.com/travel-tips-and-articles/76192>

There are many websites providing travel information for persons with disabilities. Here are a few links:

- www.travelguides.org
- www.disabled-world.com/travel

- www.independenttraveler.com/travel-tips/senior-travel/disabled-travel

The United States Department of State provides information related to personal security in the publication titled, “*Personal Security--At Home, On the Street, While Traveling.*” For more information, go to: <http://www.state.gov/m/ds/rls/rpt/19773.htm>

The National Crime Prevention Council provides travel safety tips. For more information, go to: <http://www.ncpc.org/resources/files/pdf/neighborhood-safety/Travel%20Safety%20Tips%20Flier%20July%202013.pdf>



Right to Apply for a Driver’s License

Examples of ways to practice driving skills without a license:

- Video games like Road Racer
- Amusement park bumper car rides
- Driving off road on an ATV, dune buggy or golf cart following proper safety guidelines
- Driversedguru.com is one of several free online courses available to learn driving basics
- Driving schools may have cars to practice driving skills. For more information, go to <http://www.123driving.com>

The Florida Driver’s Handbook is available at the Department of Highway Safety and Motor Vehicles’ local offices. For a list of all DMV offices in Florida, go to: <http://www.dmvflorida.org/dmv-offices.shtml>

The Florida Driver’s Handbook can also be downloaded from the Florida Highway Safety and Motor Vehicles website: <https://www.flhsmv.gov/handbooks/EnglishDriverHandbook.pdf>

The Florida Highway Safety and Motor Vehicles website has a free Practice Exam. Go to: <http://www.flhsmv.gov/html/dlnew.html>

The following websites have free practice exams:

- <http://www.highschooldriver.com/practice-test-road-rules>
- <http://freedmvpracticetests.com/fl-florida/teen-permit/fl-permit-practice-test>
- <http://driversprep.com/florida>

For first time driver information, go to: <http://www.dmvflorida.org/first-time-driver.shtml>



Right to Seek or Retain Employment

The U.S. Department of Labor provides information on job accommodations. For information, go to: <http://www.dol.gov/general/topic/disability/jobaccommodations>

Visit these websites for more information on interview skills:

- <https://www.disability.gov/can-get-help-writing-resume-preparing-interviews/>
- <http://www.regis.edu/About-Regis-University/University-Offices-and-Services/Career-Services/Student-and-Alumni/Interviewing-Techniques.aspx>
- <http://career-advice.monster.com/job-interview/interview-preparation/boost-your-interview-iq/article.aspx>
- <http://www.helpguide.org/articles/work-career/interviewing-techniques.htm>

For information about preparing resumes, visit the websites below:

- <https://www.disability.gov/can-get-help-writing-resume-preparing-interviews/>
- <http://www.gpo.gov/fdsys/pkg/ERIC-ED466056/pdf/ERIC-ED466056.pdf>
- <http://www.americasjobexchange.com/career-advice/resume-writing-tips-disabled-american>

Agencies and organizations offering employment seeking opportunities:

- Visit the Florida Developmental Disabilities Council's website for free publications on employment under Council Resources. Go to: <http://www.fddc.org/publications>
- CareerSourceFlorida provides job readiness training, incentives to obtain and maintain employment, work experience activities and career exploration. For more information, go to: <http://www.careersourceflorida.com>
- EmployFirstFlorida is a website that provides information about what the state of Florida is doing to make it easier for people with disabilities to work. For more information, go to: <http://www.employmentfirstfl.org/>
- Florida's AbilitiesWork provides resources and a database for job seekers who have a disability and are seeking employment. For more information, go to: <https://abilitieswork.employmentflorida.com/vosnet/default.aspx>
- Job fairs are events where employers meet with job seekers. Companies or organizations have tables or booths where job seekers can visit and bring their resumes. Job fairs are also held online. Job fairs are usually announced to the public through advertisements on TV, in the newspaper or searching online.
- Goodwill Industries provides job placement services and works with individuals with disabilities, special needs, or barriers to employment and they assist individuals to become self-sufficient and more marketable in the community. To find a local Goodwill Industries career center, go to: <http://www.goodwill.org/locator/>

Services offered include:

- GED Preparation (General Education Diploma)
 - Computer Lab (Basic Computer Skills)
 - Office Skills Training
 - Job Coaching
 - Career Counseling
 - Financial Literacy
 - Transitional Work Experience
 - Employability Skills Instruction
 - Resume Writing, Job Applications Completion
 - On-line Job Searching, Job Leads
 - Interviewing Skills
- Division of Vocational Rehabilitation, Florida Department of Education (VR), provides help in career guidance, training, education and/or direct placement into employment for persons with disabilities. An individual may be eligible for VR services if a goal is to become employed, the disability interferes with the ability to become employed, and VR's help is needed to find or keep a job. Go to: <http://www.rehabworks.org>
 - The Discovery Process helps individuals identify potential jobs through a person-centered planning process that involves getting to know the individual and then developing a plan for employment. If a person is a client of the Division of Vocational Rehabilitation, the Division should assist with this process. Go to Florida Center for Inclusive Communities website for more information: http://flfcic.fmhi.usf.edu/docs/FCIC_FactSheets/FCIC_FactSheet_Discovery.pdf
 - Able Trust's Florida High School/High Tech program is available to individuals who are still in school. It gives students exposure to high tech careers through mentoring, career and leadership development activities, field trips and paid summer internships in high tech businesses. Find project sites at: www.abletrust.org/hsht/
 - Project Search is a work-based program that provides career exploration and training opportunities. Go to the U.S. Department of Health and Human Services website for more information: http://www.acl.gov/Programs/AIDD/Success_Stories/FA_DevDisabilityCouncil.aspx
 - Florida's Division of Blind Services (DBS) is responsible for ensuring that people of all ages who have visual impairments can live independently and achieve their goals. For more information, go to: <http://dbs.myflorida.com/transition/>
 - Supported employment is an employment service for individuals with disabilities who require ongoing support services to succeed in competitive employment.

- If an individual is receiving services from the **Agency for Persons with Disabilities (APD)**, or is on the waiting list to receive services, contact the agency for information about employment including supported employment coaching, follow-along services for supported employment, transportation for work and paid internships as paths to employment. For more information, go to: <http://www.apd.myflorida.com/customers/supported-employment>
 - Supported employment services are also available through the Division of Vocational Rehabilitation, Florida Department of Education for individuals who qualify for services. For more information, go to: www.rehabworks.org/supported.shtml
 - Supported employment services may also be available to individuals who can pay for these services.
- Protection Advocacy for Beneficiaries of Social Security (PABSS) program provides information and advice about obtaining vocational rehabilitation and employment services and advocacy or other services that an individual may need to secure or regain employment if the individual receives Social Security Disability Income (SSDI) or Supplemental Security Income (SSI). For more information, go to: <https://www.ssa.gov/work/protectionadvocacy.html>
 - The Florida Center for Inclusive Communities (FCIC) website has information on programs and activities, materials and resources, webinars and job-development models all related to employment. Go to: <http://flfcic.fmhi.usf.edu/program-areas/employment.html>
 - The U.S. Government’s Publishing Office offers a handbook titled, “*Job Seeking Skills for People with Disabilities.*” For a copy of this handbook, go to: <http://www.gpo.gov/fdsys/pkg/ERIC-ED466056/pdf/ERIC-ED466056.pdf>
 - For more information on finding employment resources, go to: <https://www.disability.gov/resource/disability-govs-guide-employment/>

The Work Incentives Planning and Assistance Program (WIPA), formerly the Benefits Planning Assistance and Outreach Program (BPAO), is an assistance program that provides benefit options to individuals. A Work Incentive Coordinator will assist with understanding Work Incentives, Medicare and Medicaid health care coverage and other programs and issues to ensure more successful employment and financial outcomes. It is important to know prior to calling if an individual receives Supplemental Security Disability Income (SSDI) or Social Security Income (SSI). For more information, go to: <http://www.chooseworkttw.net/resource/jsp/SearchByStateAction.jsp>

Work Incentive Seminar Event (WISE) is a free online webinar sponsored by the Social Security Administration that provides information about the Ticket to Work Program or Work Incentives which can help individuals achieve financial independence and make it easier to work and still receive health care and cash benefits. Register for a session at: <http://www.chooseworkttw.net/wise/isp/wise.jsp>

“The Changing Faces of Benefits: Knowledge of Successful Employment and Asset

Development” is a webinar providing information on the impact of earnings on public benefits. For more information, go to: <http://www.floridabenefits.org/>

The Florida Center for Inclusive Communities (FCIC) provides information on government benefits and employment in a resource titled, *“Everybody Works, Everybody Wins.”* For more information, go to: <http://flfcic.fmhi.usf.edu/program-areas/employment.html>

Right to Apply for Government Benefits

The Florida Developmental Disabilities Council provides information on government benefits:

- *“Changing Face of Benefits,”* Modules 1-4 and Module 6. To download this free workbook, go to:
http://www.fddc.org/sites/default/files/changing_face_of_benefits_2013.pdf.pdf
- *“Planning Ahead,”* Chapter 4. To download a free copy, go to:
http://www.fddc.org/sites/default/files/PA_Book_final_3-5-12.pdf

The official benefits website of the U.S. Government will help determine what benefits someone is eligible for and provides information on how to apply. For information, go to: www.benefits.gov/

Right to Decide Living Arrangements

The Florida Developmental Disabilities Council offers the following resource information related to community living. For free copies, go to:
<http://www.fddc.org/publications>

- A workbook to assist in determining the most appropriate home setting (*A Place Where I Belong*).
- A manual that can assist people in preparing for hurricanes and other disasters (*Disaster Ready*).
- A resource guide identifying and explaining housing resources available in Florida (*Housing in Florida*).
- A Personal Assessment Tool which can help develop a housing plan and choose the best housing option. For a free download of this tool, go to:
<http://www.fddc.org/sites/default/files/file/Personal%20Assessment.pdf> (*Housing in Florida, a personal Assessment Guide*)

Sources of financial support from government agencies:

- Section 8 of the Housing Act is a rental assistance program that provides funds for rent or purchase of a home to low-income individuals who qualify. For more information, go to:

- www.needhelppayingbills.com/html/section_8_housing_florida.html
- www.gosection8.com/Section-8-rental-housing-in-Florida/

- Florida’s housing related programs and assistance are listed with links at: www.myflorida.com (type in “housing” in search box).



Right to Decide Medical and Mental Health Treatments

The Florida Developmental Disabilities Council offers videos, web-based courses and manuals related to health care. These resources are free of charge. For more information, go to: <http://www.fddc.org/publications>

The Florida Center for Inclusive Communities publication titled, “*Being A Healthy Adult: How to Advocate for your Health and Health Care*” includes information on healthy habits. To download a free copy, go to: <http://www.floridahats.org/wp-content/uploads/2010/03/TransitiontoAdultHealthcare-EN-complete.pdf>

Floridahealth.gov provides an on-line booklet titled, “*Disability and Health: A Guide for Floridians*” along with other information and videos about the Disability and Health Program. For more information, go to: <http://www.floridahealth.gov/programs-and-services/people-with-disabilities/disability-and-health-program/index.html>

The Center for Disease Control has information on healthy living habits for persons with disabilities as well as other health related information. For more information, go to: <http://www.cdc.gov/ncbddd/disabilityandhealth/healthyliving.html>

HealthCare.gov is an interactive website for the Health Insurance Marketplace that explains coverage options that are now available through the Affordable Care Act of 2010.

- Apply online for private insurance coverage at the Health Insurance Marketplace.
- Apply online for free or low-cost coverage such as Medicaid to persons with limited income.

The National Disability Navigator Resource Collaborative website is designed specifically to assist people with disabilities identify insurance coverage options. Trained navigators can provide assistance. For a list of navigators near you, go to: <https://localhelp.healthcare.gov>

Florida Health and Transitional Services (Florida HATS) has a publication titled, “*Just the Facts: The 411 on Health Care.*” For a free copy, go to: http://www.floridahats.org/?page_id=627

Resources that can be used to help gather medical information:

- Florida Center for Inclusive Communities developed a sample form for creating

a medical history: http://flfcic.fmhi.usf.edu/docs/FCIC_Health_Passport_Form_Typeable_English.pdf

- Florida Developmental Disabilities Council's publication titled, "*Planning Ahead*," Section D, pp 98-103. Go to: www.fddc.org/about/planning-ahead

Florida Health and Transitional Services (FloridaHATS.org) is a website designed to assist people transitioning from pediatric to adult health care by providing training and other important medical information. Download medical records forms at: <http://www.floridahats.org/wp-content/uploads/2010/03/TransitiontoAdultHealthcare-EN-complete.pdf>

The "My Medical" app (or any other medical records app) can be downloaded to keep all medical records on a computer or tablet.

The U.S. Department of Health and Human Services provides information on health care privacy rights. For more information, go to: <http://www.hhs.gov/hipaa/for-individuals/guidance-materials-for-consumers/index.html>

Right to Manage Money and Property

"*Money Smart*" (developed by the Federal Deposit Insurance Corporation) is a financial educational tool that introduces basic personal financial management and is available free of charge. It has four versions of instructions:

- An instructor-led curriculum for adults on CD-ROM available in nine languages and print versions for the visually impaired;
- An instructor-led curriculum for young adults between the ages of 12-20 on CD-ROM: "*Money Smart for Young Adults*";
- A self-paced Computer-Based Instruction (CBI) format online for ages 13 and over in English and Spanish; and
- A portable audio (MP3) version, "*Money Smart Podcast Network*."

For more information about these courses, go to: <https://www.fdic.gov/consumers/consumer/moneysmart/>

The Advisory Council on Financial Literacy has designed a course to assist children and adults to learn about money management at various stages in life. The course is titled "*Money as You Grow*" and is available at no charge. For more information, go to: <http://moneyasyougrow.org/>



Right to Contract

The Florida Department of Agriculture, Consumer Services, is a clearinghouse for consumer information, protection and complaints. For more information, go to: <http://www.freshfromflorida.com/Divisions-Offices/Consumer-Services/Consumer-Resources-Publications>

- Florida's Landlord/Tenant Law
- Health Studios
- Recognize & Avoid Telemarketing Fraud
- Request Free Consumer Publications Online

The Florida Attorney General's website addresses several different topics related to consumer protection. To access these topics, go to: myfloridalegal.com and type "consumer protection" in the search function on the home page (upper right).

- What Florida Law Provides
- Protecting Yourself from Consumer Fraud
- How to File a Complaint or Check on a Business
- Consumer Alerts
- Lemon Law (has to do with motor vehicles)

The Florida Bar's website provides information for the public about:

- Contracts. Go to www.floridabar.org and in the search field type "contracts," then click on "Consumer Tip: Legal and Binding Contracts."
- Consumer Protection. Go to www.floridabar.org and click on "For the Public" at the top of the page, then click on "Consumer Information."



Right to Sue and Defend Lawsuits

The Florida Bar website has information on civil lawsuits. Go to: www.floridabar.org and type in "civil lawsuit" in the search bar. Click on the pamphlet, "*A Civil Case or a Criminal Case.*"

To locate an attorney:

- Ask someone to recommend an attorney
- Look for attorneys online or in the phone book under "Attorneys, Civil Trial."
- Call the Florida Bar Lawyer Referral Service (800-342-8011) or go to the Florida Bar website: <http://www.floridabar.org/lawyerreferral>
- Call the local Legal Aid or Legal Services office, or go to the Florida Legal

Services website at www.floridalegal.org and click on “Lawyer Referral Service Online-Available 24/7.”

- The local bar association may maintain a listing of attorneys who provide pro bono legal services. Pro bono means that an attorney has agreed to volunteer his or her services without cost. To find information on pro bono services in Florida, go to: www.FloridaLawHelp.org



Glossary

This glossary should serve as a quick reference to terms used throughout this *Guide* and the *Development Abilities and Restoring Rights Workbook*. For some terms, you may want to consult state law for more specific definitions.

Abuse – is any willful act or threatened act by a relative, caregiver or household member with cruelty or violence that causes or is likely to cause harm to a vulnerable adult. There are different types of abuse: sexual, physical, and emotional.

Advance Directive – a witnessed written document or oral statement that provides instructions and preferences should the individual be unable to make decisions. Examples of a written document are health care surrogate and living will.

Agency for Persons with Disabilities (APD) – a state agency working in partnership with local communities and private providers to assist people who have developmental disabilities and their families; provides assistance in identifying the needs of people with developmental disabilities for supports and services.

Americans with Disabilities Act of 1990 (ADA) – a federal law that prohibits discrimination against persons with disabilities in employment, public services, transportation, public accommodations, and telecommunications services.

Assisted Living Facility (ALF) – a residential facility that provides personal care services to meet an individual’s personal needs. These are less restrictive than nursing homes. ALFs are licensed and regulated by the Florida Agency for Health Care Administration. Go to: www.fdhc.state.fl.us/MCHQ/Long_Term_Care/Assisted_living/alf.shtml

Bullying – Bullying is considered an activity of repeated, aggressive behavior intended to hurt another individual, physically, mentally or emotionally. Bullying is characterized by an individual behaving in a certain way to gain power over another person. It can be classified into four types:

1. Physical (hitting, punching, or kicking)
2. Verbal (name-calling or taunting)
3. Relational (destroying peer acceptance and friendships)
4. Cyber-bullying (using electronic means to harm others)

Capacity – an individual’s physical or mental ability; a legal status presumed to apply to all adults and is generally defined in law in reference to a specific task (e.g., capacity to execute a will). When used by legal practitioners, the element of understanding is often referenced (for example, capacity may be used to refer to the ability to understand the nature and the effects of one’s acts).

Circle of Support – people you value in your life who help you to achieve your goals and dreams.

Civil Right - a fundamental power or privilege that is defined in state and federal law and that can be exercised by each citizen. Examples of civil rights are freedom of speech, press, and assembly; as well as freedom from disability discrimination for employment, education, housing, etc.

Competent Adult - a person over the age of 18 who has not been found to be incapacitated by a Florida court.

Delegable Rights - are those rights under Florida law which a **competent adult** can assign to another competent adult to act for them. These rights include the right to seek and retain employment, the right to apply for governmental benefits, the right to decide living arrangements, the right to consent to medical and mental health treatments, the right to manage money and property, the right to make decisions about social life, the right to contract, and the right to sue and defend lawsuits.

Developmental Disability - in Florida, a developmental disability is defined as a “disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; and that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely” (Section 393.063(9), Florida Statutes).

Due Process - constitutional guarantee that the government will act fairly and with adequate process (such as notice, opportunity to be heard, right to confront, and cross-examine witnesses) if it attempts to deprive a person of life, liberty, or property.

Durable Power of Attorney (DPOA) - a legal instrument used to delegate authority to another. The person who signs (“executes”) a power of attorney is called the “principal,” and the person to whom authority is delegated is called the “agent.” A “durable” power of attorney enables the agent to act for the principal even after the principal loses capacity to make decisions, and is effective until revoked by the principal or until the principal’s death. A durable power of attorney generally refers to financial decisions, and can be an effective alternative to guardian advocacy and guardianship, allowing an individual to plan for the control of his or her affairs in the event of incapacity.

Evidence - testimony and other sources of fact used by either party to prove legal questions in dispute; rules of law that determine what testimony is to be admitted or rejected in each case and the weight given to such testimony.

Exploitation - is when someone who stands in a position of trust and confidence with a vulnerable adult or knows the vulnerable adult lacks capacity, and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult. Exploitation is also when a person uses emotional manipulation to control an individual in a way that causes harm.

Family Guardian - any family member related by blood or marriage who is appointed by the court. That person is eligible to receive compensation for his or her time and expense in the care of the person under guardianship.

Fiduciary - a person who has assumed a special relationship to another person or his or her property, such as a trustee, administrator, executor, lawyer, guardian, or conservator; a general term to apply to many categories of decision-making and management arrangements. A fiduciary must exercise the highest degree of care and accountability to maintain and preserve the person's rights and/or property within the fiduciary's charge.

Guardian - a person who has been appointed by the court to act on behalf of the person under guardianship in accordance with Chapter 744, Florida Statutes; may be the guardian of the person or property, or both.

Guardian Advocacy - the process under Section 393.12, Florida Statutes, for family members, caregivers, or friends of individuals with a developmental disability to obtain the legal authority to act on their behalf. The individual with a developmental disability is not declared incapacitated.

Guardian Advocate - a person appointed by the court to act on behalf of a person with a developmental disability in accordance with Section 393.12, Florida Statutes. This appointment occurs without an adjudication of incapacity of the person with a disability.

Guardianship - the legal process designed to protect and exercise the legal rights of individuals whose functional limitations prevent them from being able to make their own decisions.

Health Care Surrogate - a witnessed written document or oral statement that provides health care instructions and names another person to make health care decisions should the individual be unable to make decisions.

Human Trafficking - organized criminal activity in which human beings are treated as possessions to be controlled and exploited.

Incapacitated Person - a person who has been judicially determined to lack the capacity to manage some or all of his or her property or essential health and safety requirements.

Interested Person - a person who has been judicially determined to have an interest in the proceedings and is entitled to receive copies of all documents.

Job Coach - an individual who helps people with career development, professional goals and long-term workplace success strategies.

Letters of Guardian Advocacy - a legal document issued by a Florida court designating a person to act as guardian advocate on behalf of a person with a developmental disability. These letters will specify the powers and duties of the guardian advocate.

Letters of Guardianship - a legal document issued by a Florida court designating a person to act as guardian on behalf of another person. These letters will specify the type of guardianship as well as the powers and duties of the guardian.

Life Coach - a person who helps others in achieving his or her personal goals such as choosing or changing careers, improving relationships, and determining priorities; helps others with problems and decisions.

Mentor - is a person or friend who guides a less experienced person by building trust and modeling positive behaviors. An effective mentor understands that his or her role is to be dependable, engaged, authentic, and tuned into the needs of the mentee.

Neglect - the failure or omission on the part of the caregiver to provide the care, supervision, and services necessary to maintain the physical and mental health of a vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, which a prudent person would consider essential for the well-being of a vulnerable adult. The term “neglect” also means the failure of a caregiver to make a reasonable effort to protect a vulnerable adult from abuse, neglect, or exploitation by others.

Non-delegable Rights - are those rights under Florida law which cannot be assigned by a competent adult to another competent adult to act for him or her. These rights include: the right to marry, right to vote, right to travel, and right to apply for a driver’s license.

Order Determining Incapacity - a legal document issued by the court determining the incapacity of an individual and contains the following: (1) the exact nature and scope of the person’s incapacities; (2) the exact areas in which the person lacks capacity to make informed decisions about care and treatment services or to meet the essential requirements for the person’s physical or mental health or safety; (3) the specific legal disabilities to which the person is subject; and (4) the specific rights that the person is incapable of exercising.

Person under Guardianship - the term used to refer to a person who has some or all rights delegated by the court to a guardian or guardian advocate. When quoting Florida statutes, the legal term “ward” is used.

Power of Attorney (POA) - a legal instrument used to delegate authority to another. The person who signs (“executes”) a power of attorney is called the “principal,” and the person to whom authority is delegated is called the “agent.” The term Power of Attorney is being used to refer to both a Power of Attorney, as well as a Durable Power of Attorney. A “durable” power of attorney enables the agent to act for the principal even after the principal loses capacity to make decisions, and is effective until revoked by the principal or until the principal’s death. A durable power of attorney generally refers to financial decisions, and can be an effective alternative to guardian advocacy or guardianship, allowing an individual to plan for the control of his or her affairs in the event of incapacity.

Progressive Restoration Plan - a tool that identifies activities and goals the person under guardianship/guardian advocacy and the guardian/guardian advocate agree to follow building the person’s independence and abilities, which hopefully will lead toward restoration of one or more rights.

Representative Payee - an individual or organization that receives Social Security and/or Supplemental Security Income (SSI) payments for someone who cannot manage or direct the management of his or her money. Payees should use the funds for the current and foreseeable needs of the beneficiary and save any remaining funds for the beneficiary’s future use (Social Security Online: 2009).

Retardation - in Florida, retardation is defined as intellectual functioning (IQ) below 70 accompanied by significant limitations in two or more adaptive skill areas both of which must occur prior to the age of 18.

Self-Advocate - a person, who effectively communicates, conveys, negotiates or asserts his or her own interests, desires, needs, and rights. It involves making informed decisions and taking responsibility for those decisions.

Self-Determination - a term referring to the right for all persons to determine their own economic, social and cultural development.

Service Provider - an individual or agency that provides needed services, such as your doctor, your dentist, your banker, a car salesman, your personal care assistant, your teacher.

Social Security Disability Insurance (SSDI) - a federal insurance program administered by the Social Security Administration and funded by deductions to workers' wages (Federal Insurance Contributions Act - FICA) which pays benefits to workers and certain members of their family if they are "insured," meaning that they worked long enough and paid Social Security taxes. The SSDI payment is based on the earning of the worker and the number of people receiving benefits. If a worker has a child with a disability, the child may receive SSDI benefits based on his or her parent's FICA if one of three events occurs: the insured parent dies, the insured parent becomes disabled, or the insured parent retires. For more information about SSDI, go to: www.ssa.gov/dibplan/index.htm.

Social Security Retirement Benefits - are the monetary benefits received by retired workers who have paid in to the Social Security system during their working years. Social Security retirement benefits are paid out on a monthly basis to retired workers and their surviving spouses.

Supplemental Security Income (SSI) - a federal income supplement program funded by general tax revenues (not Social Security taxes) and administered by the Social Security Administration; designed to help persons who have little to no income and are blind, elderly or have a disability; provides cash to meet basic needs (food, shelter and clothing). For more information about SSI, go to: www.ssa.gov/ssi/

Support Coordinator (or Case Manager) - a specific service provided to persons receiving services through the Agency for Persons with Disabilities; assists clients in assessing and matching their service needs with service providers, in accordance with services approved for the client; also responsible for assisting clients in better utilizing community supports and building circles of support.

Trust - a legal instrument in which the owner of real or personal property (the trustor or settler) gives ownership of the property to a trustee to hold and to manage for the benefit of a third party (the beneficiary); can be a useful device for planning for the financial security of an incapacitated individual.

Vulnerable Adult - a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging (Section 415.102 (28), F. S.).

Ward - a legal term defined in law as a person who has some or all of his or her rights removed by the court and for whom a guardian has been appointed. Except when quoting Florida statutes, this person is referred to as a person under guardianship.

Will – is a legal document which names a person(s) to manage the estate of a deceased person and provides for the distribution of property.

Appendix A

CIVIL RIGHTS	Check the box that applies		
	I make my own decisions with or without help	I gave someone the authority to make decisions for me	The court has removed this right
Your right to marry		These rights cannot be delegated to someone else.	
Your right to vote			
Your right to travel			
Your right to apply for a driver's license			
Your right to seek or retain employment			
Your right to apply for government benefits or services			
Your right to decide living arrangements			
Your right to consent to medical and mental health treatments			
Your right to manage money and property			
Your right to make decisions about your social life			
Your right to contract			
Your right to sue and defend lawsuits			

Appendix B

PROGRESSIVE RIGHTS RESTORATION PLAN					
Right to be Restored	Goals	Steps	Who Will Assist	Target Date for Completion	Comments
	Goal #1	1			
		2			
		3			
		4			
		5			
	Goal #2	1			
		2			
		3			
		4			
	Goal #3	1			
		2			
		3			

Appendix C

PROGRESSIVE RIGHTS RESTORATION PLAN (EXAMPLE)

Right to be Restored	Goals	Steps	Who Will Assist	Target Date for Completion	Comments
R I G H T T O M A N A G E M O N E Y	Goal #1: Complete money management course: Money Smart	1. Decide whether to take course on line, web-based or classroom	Mary Ann will discuss with Bob & reach conclusion	1-Mar	person under guardianship = Bob guardian = Mary Ann attorney = John
		2. Sign up for course or get DVD	Bob will do with Mary Ann's help, if needed	3-Mar	
		3. Complete course	Bob will do with James - Mary Ann available if needed	30-Mar	Mary Ann will ask Bob's supported living coach to assist him with the course (SL coach = James)
	Goal #2: Begin to Manage Money	1. Develop a budget and all sources of income	Bob, James and Mary Ann	5-Apr	
		2. Identify several activities that Bob wants to do, are in the budget and that can be paid for with cash	Bob and James	5-Apr	
		3. Discuss with Mary Ann to approve cash purchases and how often Bob will get money, need for receipts, etc. (weekly, bi-weekly)	Bob, James and Mary Ann	5-Apr	
		4. Review after one month to see how Bob's budget and expenditures went	Bob, James and Mary Ann	30-Apr	on-going - as Bob becomes accomplished, authority and responsibility expands
	Goal #3: Expand authority and amount of money managed	1. Research local banks & credit unions about checking accounts, cost, etc.	Bob and James	10-Apr	
		2. Discuss with Mary Ann, Bob assuming responsibility to pay 1 - 2 bills	Bob, James and Mary Ann	10-Apr	Date for this will be determined by how Bob manages cash
		3. Bob begins paying bills identified and reconciling account with Mary Ann		15-Apr	on-going - as Bob becomes accomplished, authority and responsibility expands
	Report to Court	Bob and James will develop progress report for Mary Ann to review and approve	Bob, James and Mary Ann	1-Jun	report provided to John to file with the court for partial or full restoration of right

Appendix D

RESTORATION OF RIGHTS PROCESS IN FLORIDA		
Elements of the Process	Guardian Advocacy Section 393.12(12), Florida Statutes	Guardianship Section 744.464, Florida Statutes
Suggestion of Restoration of Rights/Capacity	<p>Any interested person, including the person under guardian advocacy, may file a Suggestion of Restoration of Rights which must state that the person has regained the ability to exercise some or all of the rights that were given to the guardian advocate. Evidentiary support or a statement of the good faith reason for the belief must also be included.</p> <p>The Suggestion must be filed in the court where the guardian advocacy is pending. (This can be found at the top of the <i>User's</i> Letters of Guardian Advocacy.)</p>	<p>Any interested person, including the person under guardianship, may file a Suggestion of Capacity stating that the person is currently capable of exercising some or all of the rights which were removed. If the person is not already represented by an attorney, a request may be made for the Court to appoint one.</p> <p>The Suggestion must be filed in the court where the guardianship is pending. (This can be found at the top of the <i>User's</i> Letters of Guardianship.)</p>
Physician's Review	Evidentiary support includes, but is not limited to, a signed statement from a medical, psychological or psychiatric practitioner by whom the person with a developmental disability was evaluated and which supports the Suggestion for the restoration.	The Court will immediately appoint a physician to examine the person under guardianship and submit a report within 20 days.
Appointment Of Attorney	Within 3 days after the filing of the Suggestion, an attorney will be appointed by the Court, if the person is not already represented by counsel.	If the person under guardianship does not have an attorney, the court shall appoint one to represent that person.

Need for a Hearing	1. If no evidentiary support is attached to the Suggestion of Restoration of Rights, the Court shall immediately set a hearing to inquire of the petitioner and guardian advocate as to the reason that was not provided and enter such orders as are appropriate to secure the required documents;	If an objection is timely filed, or if the medical examination suggests that full restoration is not appropriate, the Court shall set the matter for hearing.
	and	
	2. If an objection is timely filed, or if the evidentiary support suggests that restoration of rights is not appropriate, the court shall set the matter for hearing.	
Notice of a Hearing	The person with a disability and the person's attorney shall be provided notice of the hearing. The clerk of the court shall immediately send notice of the filing of the suggestion to the person with a developmental disability, the guardian advocate, the attorney for the person with a developmental disability, the attorney for the guardian advocate, if any, and any other interested person designated by the Court.	The Court shall immediately send notice of the filing of the suggestion of capacity to the person under guardianship, the guardian, the attorney for the person, if any, and any other interested persons designated by the Court.
Filing of Objections	Any objections to the Suggestion of Restoration of Rights must be filed within 20 days after service of the notice.	Any objections to the Suggestion of Capacity must be filed within 20 days after service of the notice.

Order of Restoration	If no objections are filed and the court is satisfied with the evidentiary support for restoration, the Court shall enter an order of restoration of rights which were delegated to a guardian advocate and which the person with a developmental disability may now exercise.	If no objections are filed, and the Court is satisfied with the medical examination, the Court shall enter an order of restoration of capacity, restoring all or some of the rights which were removed from the person under guardianship. The order must be issued within 30 days after the medical report is filed.
	OR	OR
	At the conclusion of a hearing, the court shall enter an order denying the Suggestion of Restoration of Rights or restoring all or some of the rights that were delegated to the guardian advocate. If only some rights are restored to the person with a developmental disability, the court shall enter amended letters of guardian advocacy.	At the conclusion of a hearing, the Court shall enter an order either denying the Suggestion of Capacity or restoring all or some of the rights which were removed from the person under guardianship. If only some rights are restored to the person, the order must state which rights are restored, and the guardian shall prepare a new guardianship report which addresses only the remaining rights retained by the guardian.