KNOW your RIGHTS!

Effective Self-Advocacy
Effective Self-Advocacy

• Self-advocacy is a learned skill, you need to develop through practice.
• A self-advocate should be able to:
  – Define the problem
  – Develop an action plan
  – Carry out the action
  – Assess how he/she did
• To help improve the successful outcomes of self-advocates, there must be an increase in awareness about the obstacles this Transition Age Youth with a mental health diagnosis are facing.
Effective Self-Advocacy

• It is always best to try and resolve something at the lowest level of intervention.
• While understanding your legal rights is important, knowing when it’s time to pick up a phone and call a lawyer is just as important.
• As a self-advocate, things are not always going to work out as you may want and it is important not to be discouraged when this happens.

Transition in Primary Education
Individuals with Disabilities Education Act (IDEA)

To ensure that all children with disabilities have available to them a free appropriate public education (“FAPE”) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.

- 42 U.S.C. § 1400(d)(1)(A)

Fast Facts about Special Education

• Special Education is a service not a place!

• Signs a student may need special education could include:
  • Failing classes
  • Being held back
  • Getting in trouble for disability-related behavior

• If a student is struggling with these, or similar issues, parents should request the school evaluate the student.
  • Under Texas law, the school has 15 days after a written request is submitted to decide whether or not they are going to evaluate the student.
Special Education and Related Services

• If a student is found eligible for special education services, the school brings together an Admissions, Review and Dismissal (ARD) Committee.

• The ARD Committee must hold meetings at least once a year, or as often needed, to review and use evaluations to establish annual goals and determine any related services a student may need in order to make progress in academic and functional goals.

• The plan the ARD committee develops for the students is called an Individualized Education Plan (IEP)

• This committee makes decisions about where the student will receive special education services and makes important decisions about school discipline.

Special Education and Related Services

• If a student’s disability related behavior is keeping them from making meaningful progress in school, the school should perform a Functional Behavior Assessment (FBA).

• The school should use the FBA to develop a Behavior Intervention Plan (BIP).

• If a student’s behavior worsens, an ARD Committee is called to request a new FBA and make revisions to the BIP.

• In most cases, schools are not allowed to suspend, expel, or send a student to a disciplinary placement for more than 10 days if the behavior is a direct result of the student’s disability.
Transition in Special Education

- Starting at age 14, ARD committees must begin transition planning for students in special education.

- Students should participate in this process by sharing their hopes, dreams and fears with the ARD committee.

- If a student’s goals are unclear, the ARD Committee should use evaluations to determine what transition services the student needs.

- Students in special education can remain in school until age 22 to work on their transition goals.

- Before a student receiving special education services graduates, it is important they have up-to-date evaluations because those can be used by testing companies, colleges, and agencies like DARS to determine what accommodations and services they are going to provide the student.

Transiton Services Defined in IDEA

- The IDEA defines transition services as a coordinated set of activities for a child with a disability that is:
  1. Designed to be within a results-oriented process focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

- Based on the individual child’s needs—taking into account the child’s strengths, preferences, and interests; and includes:
  - Instruction;
  - Related services;
  - Community experiences;
  - The development of employment and other post-school adult living objectives; and
  - If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

34 CFR § 300.43(a)
Youth Empowerment Services (YES) Waiver

- If you are under 18 years of age, need significant mental health services, and live in a county offering Youth Empowerment Services (YES) Waivers, this could be a good way to receive the supports and services you need.

- The YES Waiver was created to help improve clinical and functional outcomes for youth who and their families. This can be a valuable resource as it provides intensive community based services and supports. The YES Waiver also pays for other types of therapy Medicaid usually does not pay for.

- To sign up for the YES Waiver call: (713) 970-7212

- To sign up for any other waiver call DADS at: 1-855-937-2372
What is Vocational Rehabilitation?

• A state-federal partnership since 1929, helps people with disabilities prepare for, find and keep jobs. Work related services are individualized and may include counseling, training, medical treatment, assistive devices, job placement assistance, and other services. The Vocational Rehabilitation (VR) program helps Texans with disabilities prepare for, find and keep employment. This program also helps students with disabilities plan the jump from school to work.

What is the Eligibility Criteria?

• You must be at least 16 years old to qualify for VR services in most cases.
• The individual has:
  1. A physical or mental impairment, which is a;
  2. Substantial Impediment to employment;
  3. Needs Vocational Rehabilitation services to "prepare for, secure, retain, or regain employment;" and
  4. Can benefit from Vocational Rehabilitation services (this is presumed).
• A person has a right to complete an application for services
• VR must determine eligibility within 60 days, unless
• There are unusual or unforeseen circumstance, and VR and the applicant agree to a specific extension, or
• A trial work experience or extended evaluation is necessary.
Eligibility and Assessments

- Current Medical Records.
- Education Records.
- Information from the applicant and his or her family.
- Determination made by other government agencies.
- VR counselor observations.
- If existing information is not available, outdated, or insufficient, additional assessments may be made through the provision of VR services.

Maximization of Employment Goal

“The State VR Services program is not intended to solely place individuals with disabilities in entry level jobs, but rather to assist eligible individuals obtain employment that is consistent with their unique strengths, resources, priorities, concerns, abilities, and capabilities.”

Individualized Plan for Employment

• The IPE is the document that spells out what the vocational goal agreed upon by the client and counselor, the responsibilities of the client and the counselor/agency, the services to be provided, who will provide the services, when they will be provided, how progress will be evaluated and timelines for completion. This document is signed by both the client and counselor.

Important Things to Remember

• VR Services are not an entitlement.

• DARS will pay for services when comparable services and benefits are not available.

  • Comparable services and benefits means services that are provided or paid for in part or whole by other Federal, state, or local agencies and are available to the individual at the time needed to further the progress of the individual towards achieving his/her identified employment outcome.

  • E.g. DARS will require a student to fill out a FAFSA before they provide funds to pay for any post-secondary classes a student needs to take to achieve their vocational goal.
The FAFSA is the ticket for accessing Federal Student Aid like grants, loans and work study programs for College or Career School.

- It becomes available on January 1st of every year.
- You will need your tax information in order to fill the FAFSA out.
- It is 100% free. If you are filling it out online, make sure you are on the correct website:

  fafsa.ed.gov

Do you **Know your Rights?**
School After High School

Accommodations and Entrance Exams

- Individuals with disabilities are entitled to ask for accommodations needed for college entrance examinations.
- To request an accommodation, an individual should contact the testing agency and let them know what they are going to need in order to take the exam.
- Written proof of disability and the need of accommodation will need to be provided by the individual’s doctor, or any other health care professional working with the youth (i.e., a psychologist).
- Some examples of accommodations are:
  - More time to complete the test.
  - More breaks.
  - A separate room for testing.
  - Some assistive devices.
Disability in Post-Secondary Programs

- Federal laws prohibit discrimination in post-secondary programs based on disability.
- Post-secondary programs are not allowed to ask if an individual has a disability, or has a record of a disability, in their application process.
- Individuals are not required to disclose their disability to their post-secondary education programs, unless they are asking for a reasonable accommodation.

Disclose, Request, and Supply

- An individual must first disclose their disability to their post-secondary program, and then request a reasonable accommodation.
  - To request a reasonable accommodation, the student should contact the program’s office for Persons with Disabilities, or Office of Services for Students with Disabilities. If the program does not have one of these, the student should try to find out who the ADA/504 Coordinator or Disability Service Coordinator for the program is. Every program receiving federal funds is required to have an ADA/504 Coordinator.
  - If the student needs reasonable accommodations, its important for them to inform their program as soon as possible.
- To ensure the most appropriate accommodations are provided, the student will need to supply professional documentation from their doctor, or health care provider, describing their disability and their need for the accommodations being requested. The program is only allowed to request medical information, but only if it is directly about the student’s disability. The more specific a doctor can be, the better.
What would be a “reasonable accommodation?”

- A post-secondary education program does not have to provide accommodations, which would change the nature of the services, program, or activity. The program also does not have to provide any accommodations placing an extreme financial burden on the institution.
- Some examples of reasonable accommodations are:
  - Allowing service animals anywhere on campus
  - Providing written summaries and outlines of lectures
  - Allowing a student to use a note taker, or to tape record lectures
  - More time for tests
- Post-secondary education programs are not allowed to charge more money for providing a reasonable accommodation to a student.

What if I am having trouble receiving a reasonable accommodation?

1. Contact the program’s ADA/504 Coordinator of the Office of Services for Students with Disabilities and ask for their help with resolving the issue.
2. Submit a formal grievance or complaint following the program’s grievance procedure.
What if I am having trouble receiving a reasonable accommodation?

3. You could file a complaint about possible discrimination against your post-secondary program on the federal level by filing a complaint with the Department of Education-Office of Civil Rights.
   - Guidance on how to file this type of complaint and a link to the Department’s online electronic complaint form can be found using the following link: [http://www2.ed.gov/about/offices/list/ocr/docs/howto.html](http://www2.ed.gov/about/offices/list/ocr/docs/howto.html).
   - Typically someone only has 180 days from the date of the disputed discrimination to file a complaint with the Department of Education-Office of Civil Rights.
   - However if a formal internal complaint with the college has been filed, the individual has 60 days from the completion of the college’s complaint process to file a complaint with the Department of Education – Office of Civil Rights.
   - If you want to file a formal internal complaint, you should contact your program as it may have an internal grievance procedure with its own specific requirements and deadlines.

4. Besides filing a complaint with a government agency, you may also wish to file a lawsuit. If you want to file a lawsuit about these issues, many laws require a lawsuit be filed within 2 years from the date of the discrimination.

On the Job: What you and your boss need to know.
On the Job

- If an individual is qualified to do a job, federal law protects an individual from discrimination in the workplace based on disability, if the company has 15 or more employees.
- Being qualified for a job means the individual can do the job with, or without a reasonable accommodation.

What does my boss need to know?

- As mentioned earlier, unless an individual is requesting a reasonable accommodation, they do not have to disclose their disability to their employer.
- An employer is also not allowed to ask if the applicant, or employee, has a disability.
- They can, however, ask the applicant during the interview process if they can do job-related tasks, and to demonstrate how the applicant performs them.
What is a “reasonable accommodation?”

- A reasonable accommodation is any change to the work environment or a device used on the job that would help a person with a disability apply for a job, do the essential part of the job, or enjoy the benefits of a job equally to a person who does not have a disability.

Requesting a “reasonable accommodation.”

- An individual would have to disclose their disability to their employer when requesting a reasonable accommodation.
- Remember any requests submitted for reasonable accommodations, should always be in writing.
- After a request for a reasonable accommodation is submitted, the employer should engage with your youth in what is called the “interactive process” to determine if there is a reasonable accommodation the employer can provide, which would allow the employee to complete the essential functions of their job.
- An employer must consider and provide an accommodation to an individual with a disability, however, it ford not necessarily have to be the employee’s first choice.
What is the “Interactive Process?”

- The Interactive Process is what helps an employer decide if there is a reasonable accommodation they can provide to allow an employee to perform the essential functions of a job.
- This process should include discussion and exchange of information between the employer and employee and sometimes even medical professionals, or others. Some important information which should be discussed could include your job description, medical records about your disability, and your job performance.

What happens during the “interactive process?”

- During this process the employee should only discuss the barriers keeping them from completing the essential tasks of their job.
- The employer may request for medical documents regarding the employees disability and the need for an accommodation.
  - The employer is only allowed to ask for medial records related to the employees disability.
- The employer may also ask your youth to be examined by a doctor, but only if the examination is needed for the employer’s business and is related to job performance.
- Ultimately, the employer is going to be the one to decide what reasonable accommodation they are going to provide.
Addressing possible discrimination in the workplace.

1. Have a conversation with the employer to try and resolve the issue.

2. File a Charge of Discrimination. This must be filed before someone has the right to file a lawsuit. The Charge of Discrimination should be filed with both the U.S. Equal Employment Opportunity Commission (EEOC) and the Texas Workforce Commission – Civil Rights Division (TWC-CRD).

   **Deadlines to file a Charge of Discrimination**
   - 180 days from the date the discrimination occurred to file your charge with the TWC-CRD.
   - 300 days from the date of discrimination occurred to file your charge with the EEOC.
   - If your youth works for the U.S. Government, then he/she must make a complaint to an Equal Employment Opportunity Counselor within their agency within 45 days.

3. File a lawsuit. Before someone can file a lawsuit, they have to get a “right-to-sue” letter from the EEOC or the TWC-CRD, depending on whether they are going to file the lawsuit in federal or state court.
   - If your lawyer is planning to file the lawsuit in the federal government, then he/she must do so within 90 days of receiving the letter from the EEOC.
   - If your lawyer is filing a lawsuit in state court, then he/she must do so within 60 days of receiving the letter from the TWC-CRD or within two years of filing the charge, whichever comes first.
Helpful Resources

- www.eeoc.gov
- www.twc.state.tx.us/customers/cwp/civil-rights-discrimination.html
- www.askjan.org
- www.workplacefairness.org

Money Matters: Social Security Benefits
Eligibility

• The Social Security Administration's definition of disability is a medically-determinable physical or mental impairment(s):
  • Expected to result in death, or
  • Has lasted, or is expected to last, for a contentious period of 12 months.

• When determining if you do, or do not, qualify for benefits, the SSA looks to see if your disability keeps you from participating in a Substantial Gainful Activity (SGA).

What is an SGA?

• An SGA, as defined by the SSA, is any work performed, or typically performed, for pay or profit; whether you make any profit from it does not matter.

• **Substantial** work activity means you are doing significant mental or physical activities. Work can still be substantial even if you can only work part-time, or if you are not doing as much or earning as much as you did before you became disabled.

• **Gainful** activity is something you get paid to do. However, even if you don’t get paid, the SSA may conclude your work is gainful if it is an activity other people usually get paid to do.

• Whether you make money or not, if you can participate in an SGA when you apply for assistance, you will not qualify for social security benefits.
Supplemental Security Income

• There are two types of programs the SSA offers to help people with disabilities, but most youth will only qualify to receive SSI benefits.

• To qualify for SSI, an individual must meet the SSA’s disability criteria, and have limited income and resources.

• Beneficiaries receive cash benefits when they enroll in SSI.

• Under SSI, you cannot receive more than $733 in cash benefits a month as an individual.

• SSI is your ticket to Medicaid!

Areas of Improvement
My Strengths

My Future Plans & My Strength’s

- Education
- Employment
- Taking Care of Me (Personal Effectiveness & Wellbeing)
- Living Situation
- Life Skills
Self-Compassion

SAVE THE DATE
AUGUST 15, 2015
9 AM-3PM

KNOW YOUR RIGHTS! TRAINING

EMAIL: ACHARLES@DRTX.ORG TO BE ADDED TO THE INTEREST LIST
Resources on Self-Compassion

**Websites**

http://self-compassion.org

www.mindful.org

www.compassionateliving.info

www.foundationforactivecompassion.org

www.cnvc.org (Center for Nonviolent Communication)

www.mindfulselfcompassion.org

**Books**