

# SUPPORTED DECISION MAKING: An alternative to guardianship



## TIP SHEET

### What is Supported Decision-Making?

Supported Decision Making (SDM) is an alternative to guardianship that allows a person with an intellectual or developmental disability (ID/DD) to use supports to make his or her own decisions.

### What is guardianship?

Guardianship is a legal process used when a person may not be able to make safe or sound decisions for themselves and/or their property. It has been historically used to protect vulnerable individuals, including persons with ID/DD. Guardianship is granted by a judge through the court system. Because guardianship may remove considerable rights from an individual, an individual and their family should consider alternatives to guardianship first.

### How is SDM different from guardianship?

With guardianship, the guardian has the right to make decisions for an individual. With SDM, the individual keeps the right to make their own decisions, but uses supports to do so.

### What are other alternatives to guardianship?

- Representative payee
- Durable powers of attorney
- Health care surrogacy
- Living wills
- Trusts
- Community advocacy systems
- Joint checking accounts
- Case management

### What role does the person with a disability play in SDM?

The person with a disability is the “decision-maker” throughout the entire SDM process. It is their decision to seek out SDM and to choose from whom and with what decisions they want support.

### What does SDM process look like?

A person using SDM chooses trusted advisors, such as friends, family, or professionals, to serve as supporters. The supporters agree to help the person understand, consider, and communicate decisions, giving the person the tools to make their own informed decisions. Supports may include helping find useful information, helping weigh the pros and cons, assisting in communicating the decision to third parties, and/or in carrying it out. Often the arrangement between the person and their supporters is written down in a SDM agreement so that all parties know and understand their rights and responsibilities.

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### **Why is SDM important? What are the benefits to SDM?**

The way in which we understand disability has changed. There has been a shift from the caregiver approach to a rights-based approach. Under SDM, a person maintains all of their civil rights, including rights to contract, vote, marry - all of which are important to their human dignity and personhood. Current research also indicates that promoting self-determination and inclusion in the community is often the best protection. Making and learning from one's own decisions prepares a person to make good decisions when their parent or caretaker is not around. And being connected to a network of supporters protects against the kind of abuse that can happen when a person is isolated or powerless.

### **How do I know if SDM is for me or someone I know?**

It is a personal decision - one in which the person with ID/DD should be involved. Alternatives to guardianship should be considered prior to petitioning the court for guardianship.

### **Who can help us with SDM in New York?**

Supported Decision-Making New York (SDMNY) aims to increase awareness of and information about SDM and to help persons with ID/DD complete the SDM process. For more information, check out [www.sdmny.org](http://www.sdmny.org), or contact them by phone at (212) 396-7754.

### **What is the legality of SDM agreement?**

SDM has not yet been formally recognized through legislation or the court system in New York. As such, SDM agreements are not legally binding in New York, and third parties, such as healthcare providers, lawyers, landlords, and banks, may not recognize SDM agreements. Such parties may voluntarily accept and honor the agreement though. Legislation is necessary in order to require third parties to accept SDM agreements and to relieve them of potential liability. Texas and Delaware currently have such legislation.

### **What can we do to prepare our child for SDM?**

Parents, caretakers, and professionals should start working with a person on self-determination, self-advocacy, and independence early. Check out INCLUDEnyc's "[Life Beyond High School for Students with Developmental Disabilities](#)" tip sheet for suggestions.