

# Supported decision making

## Author

Northwest Justice Project

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Supported Decision Making (SDM) is an alternative to guardianship that helps people with disabilities without limiting their rights. Learn how it works, what's good and bad about SDM, and how to create, change, or end an SDM agreement.

## 1. Avoid guardianship

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Family members and other caregivers may seek a guardian for someone with disabilities. But guardianship has many downsides:

- Once a guardianship is in place, it's hard to remove.
- Guardianship can have negative consequences for people with disabilities and their families and caregivers.
- Guardianships often wrongly assume people with disabilities can't make decisions for themselves.

Before asking for guardianship, investigate the alternatives. Try to use an alternative to guardianship if you can.

SDM is one such alternative. A Supportive Decision Making Agreement lets people with disabilities choose supporters to make decisions and exercise their legal rights. With an SDM agreement, the person chooses a trusted friend, relative and/or other (a **supporter**) to help them understand and make decisions, and to communicate decisions to, for example, doctors and the bank.

People who use SDM don't need someone to make decisions for them. They just need help working through the decision-making process to make decisions for themselves.

## 2. SDM benefits

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There are many good reasons to make an SDM.

- It promotes independence for people with disabilities.
- It respects the wishes of the person with a disability.
- It doesn't take rights away from the person with a disability.
- Creating, executing, and changing a SDM agreement is easier and faster than getting or changing a guardianship. You don't need to use the court system.
- It doesn't cost anything and you don't need a lawyer.
- It is a formal document. Professionals, providers, and others are much more likely to cooperate with you if you use an SDM.

## 3. Who can make a SDM agreement

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The person who creates an SDM agreement must understand what they're doing. The person and their supporters must discuss the agreement's terms. They must make sure it's clear and understood.

Someone who often changes their mind about what support they want, how they want it and from whom, may not benefit from an SDM agreement. There may be ways to change the SDM agreement to anticipate such situations.

People with limited capacity to make decisions, or who need help to make decisions, can be abused and exploited. An abuser or exploitative person might take advantage of an SDM agreement. **Use caution** when the person selects supporters for an SDM.

## 4. Supporters

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A person with disabilities should choose a trusted friend, relative and/or another person to be a supporter. Supporters don't decide what goes into the written agreement. The person with the disability decides everything.

These people **can't** be supporters:

- Paid employees of the person with a disability. There's an exception to this for immediate family members.
- Immediate family members or other persons against whom the person with a disability has gotten a court order of protection.
- Anyone subject to a civil or criminal no contact order keeping them from contacting the adult with a disability.

## 5. SDM agreement requirements

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An SDM agreement must be in writing and list these things:

- Areas in which the person wants support with decision-making
- Names of supporters and their relationship to the person
- How the supporter will support the person in their decision-making

The SDM agreement must also say all these things:

- The person with a disability is making the agreement of their own free will.
- The name, address, phone number and email address of each supporter chosen by the person with the disability.
- What the supporters may do to help with everyday life decisions such as getting food, clothing & shelter, getting medical care, managing financial affairs, and other decisions.
- The supporter may not make decisions for the person with the disability.
- How the supporter can help the person with a disability make their decisions.
- The start and end date of the SMD agreement.
- The person with the disability can end the agreement at any time before the ending date.

## 6. Executing the agreement

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The person with the disability and each supporter must sign the SDM agreement. You can then either have a notary public witness and sign it **or** have 2 witnesses who have no interest in the agreement witness its signing.

If you choose to sign the agreement in front of 2 witnesses, make sure that neither witness is a supporter of the person with a disability, an employee of a supporter, or paid to provide services to the person with disability. Also, if the person with a disability normally requires an interpreter to be present to be able to communicate with others, the interpreter must be there when everyone signs the agreement.

The person with a disability must also sign must sign releases of information for each supporter so they can communicate with, for example, the person's doctor. This will let the supporter receive confidential information to help support the person better.

## 7. How to support

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Here are **tips** for anyone who's asked to be someone's supporter:

- Understand how the person with a disability makes decisions. For example, allow extra time for a person's response.
- Understand how the person wants to get information to help support them in decision-making.
- Help to figure out what the person wants, not what the supporter believes is best.
- Make the decision-making process accessible to the person with a disability based on their wants and needs. This can include, for example, engaging in demonstration, role-playing, and/or one-on-one conversation.
- Respect the person's values, preferences, and decisions.

The person with the disability determines the supporters' roles.

Some examples of supports you can choose include extra time to discuss choices, role playing with alternative outcomes, use of assistive technology, and having a support person to take notes and help the person discuss their options.

## 8. SDM examples

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There's no one-size-fits-all for SDM. Agreements will look different based on your needs and abilities. Here are some examples of SDM's:

- A person with a disability must decide if they should have elective surgery. The supporter takes the time to explain the surgery carefully to the person. Then they understand it well enough to give informed consent.
- Someone is having a hard time deciding if they should begin an intimate or sexual relationship, and with whom. The supporter explains the consequences of a sexual relationship. This should include the risks, benefits, and options.
- Someone is deciding if they should move out of a nursing facility to the community. The supporter helps the person understand their options. They also advocate for the person's choice.

This isn't a complete list.

The Center for Public Representation describes several stories from people about how how SDM helped their situation (<https://supporteddecisions.org/stories-of-supported-decision-making/>).

## 9. Combine alternatives

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It's a good idea to combine an SDM agreement with these other alternatives to give the person with a disability support and more self-determination:

- Durable power of attorney
- Health care directives (or living will)
- Representative payee agreements (<https://www.ssa.gov/payee/>) for people who get Social Security or SSI benefits

Washington also has a Consent to Health Care law at RCW 7.70.065 (<https://app.leg.wa.gov/RCW/default.aspx?cite=7.70.065>). It says who can make health care decisions for someone who can't do it for themselves.

## 10. Child turning 18

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SDM is a flexible, less restrictive alternative to guardianship for a young person with a disability who's turning 18.

As the young person ages, their needs change. You can easily change the SDM agreement to keep up. It doesn't cost anything.

For students under age 22 and eligible for special education, you can combine an SDM Agreement with an agreement between student and parent (<https://apps.leg.wa.gov/WAC/default.aspx?cite=392-172A-05135>) to share education decision-making.

## 11. Change or end an SDM agreement

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Only the person with a disability can change or end any part of your SDM agreement, any time and any way they want. It's not the decision of the supporters or anyone else.

They can make changes on your current agreement and have each of their supporters sign it. Or they can write up a new SDM agreement that says all earlier agreements are canceled (are revoked) and the new agreement is the only agreement. The person with a disability and their supporters should sign the new agreement.

## 12. Form

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Form attached:

**Supported Decision-Making Agreement** (NJP Planning 541)

This is a sample form. You don't have to use it, but you might find it helpful. Or you may create your own agreement.

## 13. Learn more

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- National Resource Center for Supported Decision-Making (<http://www.supporteddecisionmaking.org/>)
- Center for Public Representation (<https://supporteddecisions.org/>)
- “Supported Decision-Making: Frequently Asked Questions,” ACLU ([https://www.aclu.org/sites/default/files/field\\_document/faq\\_about\\_supported\\_decision\\_making.pdf](https://www.aclu.org/sites/default/files/field_document/faq_about_supported_decision_making.pdf))

## 14. Video about Supported Decision Making

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What is Supported Decision Making and how is it different from guardianship? Ivanova Smith interviews David Lord from Disability Rights Washington to find out how Supported Decision Making works.

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our [Get legal help](#) page.

# Supported Decision-Making Agreement

*Use this form to appoint someone to help you make decisions.*

1. **My name is:** \_\_\_\_\_.

2. **Start date**

This Agreement is effective immediately.

3. **End date**

This Agreement will end on (date): \_\_\_\_\_, unless my supporter or I end it earlier.

4. **Appointment of Supporter**

I name the following person as my supporter:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

This person's relationship to me is (describe): \_\_\_\_\_

5. **Types of decisions**

My supporter may help me with making everyday life decisions about:

Getting food, clothing, and shelter ☐ Yes ☐ No

Taking care of my health ☐ Yes ☐ No

Managing my financial affairs ☐ Yes ☐ No

Other matters ☐ Yes ☐ No

(Specify other matters, if any): \_\_\_\_\_

6. **Supporter's role**

My supporter is **not** allowed to make decisions for me. To help me with my decisions, my supporter may:

- Help me access, collect, or obtain information that is relevant to a decision, including medical, psychological, financial, educational, or treatment records
- Help me understand my options so I can make an informed decision
- Help me communicate my decision to appropriate people

7. **Releases**

I have signed and attached the following releases, if any, to this Agreement.

☐ None



- ☐ Health care – a release allowing my supporter to see protected health information under the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191
- ☐ Education – a release allowing my supporter to see educational records under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232g

### Supported Adult

I am signing of my own free will for the purposes stated in this Agreement.

► \_\_\_\_\_  
My signature (*in front of a notary or witnesses*)      Date \_\_\_\_\_

### Notarization (preferred)

State of Washington

County of \_\_\_\_\_

This document was acknowledged before me on (*date*) \_\_\_\_\_  
by (*name*) \_\_\_\_\_.

► \_\_\_\_\_  
Signature of Notary  
Notary Public for the State of Washington.  
My commission expires \_\_\_\_\_.

### Statement of Witnesses (only if you cannot find a notary)

On (*date*): \_\_\_\_\_, (*name*): \_\_\_\_\_  
signed this Supported Decision-Making Agreement in my presence. I agreed to witness their signature at their request.

- I'm not a named Supporter or employee of a named Supporter for this person.
- I'm not paid to provide services or care for this person.

#### Witness 1

► \_\_\_\_\_  
Signature  
Print name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

#### Witness 2

► \_\_\_\_\_  
Signature  
Print name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

### **Supporter's consent**

I acknowledge my responsibilities and agree to act as a supporter under this Agreement.



\_\_\_\_\_  
Supporter's signature

\_\_\_\_\_  
Date