

Supported Decision Making and Alternatives to Guardianship

SDM & A2G



A workshop by and for youth

Mission

Diverse Ability Incorporated, as a youth-driven nonprofit organization, empowers youth and young adults who have disabilities on their journeys to independence through Peer-Based programs and services



501(c)(3) nonprofit public charity

Diverse Ability Incorporated

We provide programs that teach important skills like advocacy, leadership, goal setting, and learning to be more independent.

- peer-based training, navigation, and support services
- provided throughout Arizona
- by and for youth and young adults who have a variety of disabilities and other diversities
- peer-led workshops at conferences, schools, and in the community



Important Note

This session on Supported Decision Making and Alternatives to Guardianship is for informational purposes only.

We will share resources at the end of this presentation, including resources for legal advice and assistance.



Guardianship

Until we turn 18, we are not recognized as adults by the law. A parent or guardian is legally responsible for us. When we turn 18, we are considered an adult by the law.

Some people also have a guardian after they turn 18, especially young adults who have disabilities. This means that someone has gone through the legal process to be a guardian and have the legal right to make decisions for them.



Guardianship happens in a court with a judge. While some people may need a guardian, others do not. Sometimes, the guardian and the person under guardianship do not realize that there are other options.

There are other ways to ensure that people you trust in your life can help you make decisions *without* having a guardian. These other options can help you have more control and decision making over your life.

This is what we are going to explore today!



Alternatives to Guardianship Including Supported Decision-Making



Under Guardianship, you lose your right to:

- Make your own healthcare decisions
- Manage your own money
- Choose if and where you work
- Choose to continue your education
- Choose your own friends
- Date or get married

In May 2024, the AZ Court of Appeals found it unconstitutional to automatically deny the right to vote to individuals under guardianship. Now, you do NOT lose your right to vote in Arizona if you are under guardianship. The laws about voting and guardianship are not the same in all states.

What are Alternatives to Guardianship?

Alternatives to guardianship are options other than guardianship that people who have disabilities and their supporters can use to help the individual who has a disability make certain life decisions. An alternative is something you choose “instead of” something else.

These alternatives, or other options, are less restrictive than guardianship. People who have disabilities can get the assistance they need in making important life decisions without losing the rights one loses when under legal guardianship.

One of these options or alternatives is **Supported Decision Making**.



Supported Decision Making

- It is perfectly okay to ask others for help or input when making important decisions.
- Through Supported Decision Making, people who have disabilities keep their rights while receiving guidance and assistance from trusted others, helping them make informed decisions.
- The trusted others are called Supporters, and they are chosen by the person who has a disability.
- The Supporters agree to help the person who has a disability in the areas agreed upon by that person. They sign an agreement, called a Supported Decision-Making Agreement.
- Supported Decision Making became a legal option, or a legal alternative to guardianship, in Arizona in June 2023. That means it is now state law.

Video 2



Other Alternatives to Guardianship

Supported Decision Making is an important and powerful alternative to guardianship.

We are going to discuss three other alternatives to guardianship, or other options an individual may find helpful instead of guardianship.

- Representative Payee
- Power of Attorney
- Advanced Directive



Representative Payee

A person who is needs help with managing their finances and who only receives Social Security benefits (like SSI or SSDI) may benefit from a representative payee to help manage these benefits.

Some may need help paying monthly bills and managing their finances.

IMPORTANT NOTE: If a person only receives income from Social Security and they cannot manage their own benefits to pay monthly expenses but are otherwise able to live independently in the community, a representative payee may be the only legal option necessary.



Power of Attorney

Power of Attorney is when a person gives another person the legal power to make decisions for them and to take care of important matters. The person is given legal authority to make decisions on behalf of the other person.

The person chosen as power of attorney may have the authority to handle things like:

- managing money
- making medical decisions
- handling legal matters

Your power of attorney should be somebody you trust to make decisions for you when you are unable to. Power of attorneys are restricted to making decisions about what you decide.



Advanced Directive

An advanced directive is like a personal instruction manual for your healthcare. It is a legal document that helps guide doctors and caregivers in making decisions about your medical treatment if you are unable to communicate or make decisions for yourself.

The directive contains your preferences and wishes in advance, so that everyone knows what you would want in different medical situations. This can include things like whether you would want certain medical treatments, like being put on a ventilator, or if you would prefer to focus on comfort care. It's a way to make sure your voice is heard, and your wishes are respected, even if you can't express them at that time.



What is the Transfer of Parental Rights?

When a student becomes 18 years old, the right to make decisions about special education services is transferred from the parents to the student, because the student is considered an adult under the law. This **Transfer of Parental Rights** means that **the student is now in charge of making their own educational decisions. It is their right under the law.**

The exception to this law is if a student is under guardianship when they turn 18. In this case, the guardian still makes educational decisions.



What if you want help from your parent?

If a student ages 18-22 is NOT under guardianship, they have the right to make their own educational decisions. However, they may want help or assistance from a parent. They can still have a parent involved in their education **without** having to give up their rights or go under guardianship.

Students can give permission for their parents to help them make educational decisions, including attending their IEP meetings. There are many ways to do this that don't involve guardianship.

Some Examples: Student signs a school form giving their consent for parent involvement, student appoints a representative, or the student and parent use a Supported Decision-Making Agreement.

Why is this so important?



Video 3



Activity: Alternatives to Guardianship

As we read through the following stories about young people, think about what alternatives to guardianship they could use to get help with life decisions they are facing.

In both cases, the young adults would like some help making important decisions, but they do not want to be under guardianship to get the support they need.

What are their alternatives, or options?





Zoey is a young woman who receives Supplemental Security Income. That means she gets payments every month from the Social Security Administration because of her disability. She is not used to keeping track of her payments. She has a parent who she trusts to help manage her benefits for her. She doesn't want a guardianship.

What alternative to Guardianship could she use?



Liliana is a young woman who sometimes has trouble understanding what her many doctors tell her. Doctors also often have a hard time understanding what she tries to tell them. She has a surgery coming up soon. She has an aunt who she trusts to help her make health care decisions. She doesn't want a guardian, because she feels that she can make most health care decisions on her own. But she doesn't want her communication challenges with her doctors to get in the way of her getting the health care she needs.

What alternative to guardianship could she use?

Young Adult Panel

Share whether you are under Guardianship.
If not, do you use the help of Supporters to
make decisions and live independently?



Young Adult Panel

Do you use Supported Decision Making?
Is this used informally, or do you have a
signed SDM Agreement with your chosen
supporters?



Young Adult Panel

In what areas of your life have you chosen to include supporters in your decision making?



Young Adult Panel

For those of you who use a formal SDM Agreement, please explain how that process worked.



Young Adult Panel

Can you use Supported Decision Making and still feel like you are living independently and exercising Self-Determination and Self-Advocacy?



Video 4



Photo by Ryan Johnson

making his own decisions

Panel Final Thoughts

Please share your thoughts on the video we just watched, in which a young person terminated Guardianship by using Supported Decision Making.

Do you have any final thoughts on Supported Decision Making you would like to share with us?



Resources



Disability Rights Arizona
DRA



Native American
Disability Law Center
NADLC



Center on Youth
Voice, Youth Choice
CYVYC

More Resources

The Arc of Arizona

Future Planning Resources and Sample SDM Agreement

<https://arcarizona.org/idd-and-18-now-what-future-planning-resources/>

Southwest Institute for Families and Children

SDM Videos, Curriculum, and other resources

<https://swifamilies.org/sdm/>

Arizona Achieve

Self-Advocacy and Guardianship Resources

<https://www.azachieve-tempearc.org/resources> or

<https://www.azachieve-tempearc.org/library>

Raising Special Kids

Training and Workshops regarding Guardianship and Options

<https://raisingspecialkids.org/>

Need assistance with navigating these resources? Contact **Diverse Ability Incorporated**.



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