

Balancing Autonomy and Safety: Supported Decision-Making

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What is supported decision-making?

- An alternative to guardianship
- Less restrictive than guardianship
- Let's adults with disabilities make their own decisions by using family members, friends, and support staff to help understand choices, ask questions, make decisions, and communicate their decisions.

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SDM as an alternative to guardianship

- Guardianship is *substitute* decision-making, SDM is *supported* decision-making.
- SDM can be formal (via written agreement) or informal.
- Decisions are made by the person, with support and input from a group of trusted advisors – the advisors do not make the decisions.

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SDM looks different for everyone

- Depends on:
 - What the person needs support for and
 - The decision the person needs to make.

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SDM trends

- Laws codifying supported decision-making as an alternative to guardianship that should be attempted *before* guardianship can be granted.
- As of late 2019, 9 states had laws outlining *formal, legal* SDM agreements.

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Similar cases... different processes and outcomes

- Marie in Texas had cerebral palsy and an intellectual disability. She does not have a legal guardian. She has signed supported decision-making agreements with three people – her mom, her sister, and a longtime support professional.
- Marie started dating Dan, a man she met at the grocery store she works at part-time. He also has an intellectual disability.

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How did the supporters approach the consent issue with Marie?

- Ongoing, continual conversations with Marie about dating, sex, and her relationship with Dan.
- Marie asked questions and was open with her supporters – they were able to help her navigate her relationship with Dan, including a sexual relationship.

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Similar cases... different processes and outcomes (2)

- Jane in Pennsylvania has a daughter, Claire, who is 27-years-old and has an intellectual disability. She is Claire's legal guardian (plenary or full guardian).
- Jane discovered that Claire was having sex with a man in her day program. Claire called him her boyfriend and said they were in love.

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How did Jane approach the consent issue with Claire?

- She didn't talk to Claire at all.
- Instead, she made a report with law enforcement. She claimed that Claire was unable to consent to sex because she was Claire's guardian.

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