

Supported Decision Making

The Utah Developmental Disabilities Council's Position:

The Utah Developmental Disabilities Council is in favor of Supported Decision Making as a legally recognized option instead of, or along with, guardianship, for adults with intellectual and developmental disabilities in the state.

Supported decision making can be a formal or an informal process. Individuals can have one support person or many. Most people use supported decision making every day when asking family and friends for advice or when considering a major decision. This process allows adults to make their own decisions and to receive only the support they want. Supporters help collect and evaluate the information needed to make a decision, but do not make decisions for the person they are supporting. Having a legal, written agreement may help professionals – such as teachers, lawyers, doctors, and banks – to recognize and honor this process for those who choose to use it.

The Utah Developmental Disabilities Council's Reasons:

Studies have found that when people with disabilities have more control over their lives – when they have more self-determination and personal control – they are more likely to be employed, independent, and safe.¹

Many people with disabilities can manage their own lives with minimal, if any, assistance. For others, there are effective supports, including Powers of Attorney, Advanced Directives, Representative Payees, ABLE Accounts, Special Needs Trusts, and Supported Decision-Making, that can provide the help they want and need to make decisions and direct their lives.² In addition, a recent study found that young adults who used Supported Decision-Making were more independent and self-confident, became better at making decisions, and made objectively better decisions.³ Finally, the National Guardianship Association – an organization made up by and for guardians – has stated that alternatives like Supported Decision-Making should be attempted before ordering guardianship.⁴

The Utah Developmental Disabilities Council's Recommendations:

- As a state and society, we must acknowledge that disability does not equal incapability and respect everyone's right to make their own choices and direct their lives to the maximum of their abilities.
- Educational and training material about supported decision-making should be provided to people with disabilities and families as well as educational, medical, financial, legal, and other professionals in order to ensure consistency and opportunity across the state.
- Utah attorneys, judges, and prospective guardians should receive training to ensure that guardianship proceedings and guardianships are consistent with

Utah Law and

- protect the rights of people facing guardianship petitions - including their right to be represented by an independent attorney; and
- guarantee that guardianships, when absolutely necessary, only restrict rights to the minimum extent possible and empower wards to make as many decisions as they want to make, and as they can make.
- Utah should enact legislation that gives Supported Decision-Making agreements legal status.

References

1. See, e.g., Karrie A. Shogren et al., *Relationships Between Self-Determination and Postschool Outcomes for Youth with Disabilities*, 4 J. Special Educ. 256 (2015); Michael Wehmeyer, et al., *Self Determination and Positive Adult Outcomes: A Follow-Up Study of Youth with Mental Retardation or Learning Disabilities*. *Exceptional Children*, 63(2), 245-255 (1997). Ishita Khemka et al., *Evaluation of a Decision-Making Curriculum Designed to Empower Women with Mental Retardation to Resist Abuse*, 110 Am. J. Mental Retardation 193 (2005).
2. e.g., Jonathan Martinis & Peter Blanck, *Supported Decision-Making: From Justice for Jenny to Justice for All. A Theory to Practice Guide*. Virginia: Something Else Solutions Press. (2019).
3. Jonathan Martinis & Lucy Beadnell. (2021). "I Learned that I have a Voice in my Future:" *Summary, Findings, and Recommendations from the Virginia Supported Decision-Making Pilot Project*. Available at: <http://www.supporteddecisionmaking.org/node/488>
4. National Guardianship Association, *Position Statement on Guardianship, Surrogate Decision-Making, and Supported Decision-Making*, available at: http://www.guardianship.org/documents/NGA_Policy_Statement_052016.pdf

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