

Supported Decision-Making

Also Known As

The Dustin Gary Act

A User's Guide for
Adults with Disabilities, their Supporters, and
Families



Created by The Arc of Louisiana

And

Funded by the Louisiana Developmental Disabilities Council

Purpose of Users Guide

This Users Guide was created by The Arc of Louisiana to provide information about Supported Decision-Making for adults with disabilities, (as defined by The American with Disabilities Act) their families, and supporters. The goal of this Guide is to illustrate how Supported Decision-Making can be used to help support adults with disabilities in making their own decisions, as well as reduce the usage of more restrictive means such as Interdiction or Tutorship.

Supported Decision-Making helps preserve an adult with a disability's autonomy and independence, while still providing the person with support from family, friends, and their community when making certain life decisions.

For questions or more information, please contact The Arc of Louisiana at 225-383-1033, send an email to: info@thearcla.org or visit our website at www.thearcla.org.

Disclaimer

This material is presented for educational purposes only. It is not and does not take the place of legal advice in any specific situation, nor is it offered as such by the author. The information contained herein is based on the law at the time this guide was produced. If you have questions about your legal rights, please consult an attorney.



Acknowledgements

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A sample Supported Decision-Making Agreement appears in this Guide.

Chapter 1: Overview of Supported Decision-Making

What is Supported Decision-Making?

GETTING HELP WHEN IT'S NEEDED!!!

Supported decision-making (SDM) allows adults with disabilities to make choices about their own lives with support from a team of people they choose. Adults with disabilities choose people they know and trust to be part of a support network to help with decision-making. If you think about it, that's really just a fancy way to describe the way we all make decisions.

Supported decision-making is an alternative to tutorship and interdiction in Louisiana.

We all use Supported Decision-Making. For example, many people consult with their family and friends before making big decisions, such as where to live, where to go to college, what car to buy, how much money to save. Sometimes we consult with experts to help us make complicated decisions, such as talking to doctors about medical decisions. Talking to experts can help us understand complicated information, even though the final decision is up to us, not the expert.

The right to make decisions through supported decision making is based on the Constitutional Right of every person to make his or her own decisions

- That right should **NEVER** be dependent on the quality of any decision made!

At the center of SDM is the **Decision-Maker** (Adult with a disability as defined by The American with Disabilities Act ADA). The Decision-Maker chooses people who they would like to support them when making certain decisions. These people are called **supporters**. They can be family, friends, service providers...anyone that the Decision-Maker chooses, and the supporters agree to serve in this role.

The Decision-Maker decides **what kinds of decisions** they would like, and need support with.

Examples include:

- decisions about how to spend money
- where to live
- education

- relationships
- healthcare
- employment

The Decision-Maker also decides **what kind of support** they would like in making certain types of decisions. For example, the Decision-Maker may want support when gathering information. They may want support with understanding information. They may want support with communicating a decision to others. The possibilities are endless and should always be individualized.

Supported Decision-Making can be as formal or as informal as the Decision-Maker would like it to be. The decision maker and the supporters may sign a Supported Decision-Making Agreement (SDMA). This is a written plan, developed by the Decision-Maker and their team, that gives information about who the supporters will be, what kind of decisions will be supported, and what kind of support is requested. No matter what the agreement looks like, it **MUST** be notarized!!

An example of a Supported Decision-Making Agreement can be found later in this Guide. It may be filled out as written, or it can be changed to suit the needs of the individual.



Benefits of Supported Decision-Making

Supported Decision-Making is based on the idea of **self-determination**. This means that an adult with a disability directs the plan for their own life. They decide what is most important to them, set goals, and with the support of those around them, work to achieve those goals so that they can live the most fulfilling life possible.

All people deserve a life of independence, gainful employment, and fulfilling relationships with friends and romantic partners. Supported Decision-Making is based on the idea that making decisions is a skill that can be learned.

Supported Decision-Making helps people learn to manage and avoid risks. This is known as “dignity of risk,” and it means that taking reasonable risks is a necessary part of self-determination and building self-esteem. Supported Decision-Making preserves the dignity of risk.

Facts about the use of Supported Decision Making:

- Improves health outcomes for individuals with I/DD
- Individuals report feeling more independent
- Being Well – Adjusted
- Maintaining gainful employment
- Feel safer and more secure

Facts about Self Determination:

People who are self-determined know what they want and how to get it. They advocate on their own behalf and are involved in solving problems, and making decisions about their lives.

1



I think about the people I trust. I ask them to support me. They have to agree to support me.

2



I think about how I want them to support me. I think about the areas that I want support in, like healthcare, education, money, getting a job, or relationships. I can ask for support in other areas too.

3



My supporters and I discuss how they will support me. We all agree in the ways I will be supported. I might have to ask to other professionals to help me too.

4

My supporters and I sign the agreement. I can change my mind at any time. My supporters can change their minds too.

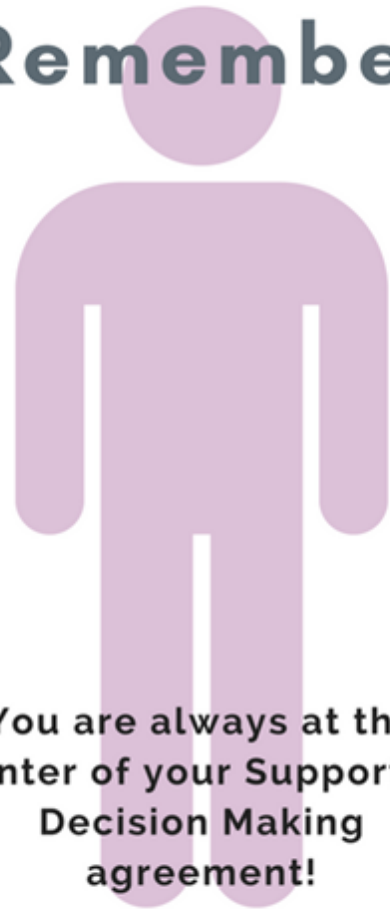


Supported Decision-Making Guide

for

Individuals

Remember



You are always at the center of your Supported Decision Making agreement!

Supported Decision-Making in Louisiana (SDM)

The Dustin Gary Act:

As of August 1, 2020, Louisiana's new law is in effect. It specifically requires that less-restrictive alternatives, including SDM, be attempted before a court will consider granting Interdiction. The passage of HB361 by Representative Paula Davis shows that Louisiana is recognizing the importance of self-determination, and that Interdiction should only be used as a last resort.

Supported Decision-Making has been gaining momentum in the United States for several years. In the United States, Supported Decision-Making has been endorsed and promoted by the American Bar Association, the National Guardianship Association, and a number of Federal advisory boards and agencies, including the Department of Education, the Department of Health and Human Services, and the National Council on Disability. In fact, the advice of the National Guardianship Association says to "Try SDM before seeking Interdiction".

In Louisiana, people have been utilizing the concept of Supported Decision-Making for years. The Arc of Louisiana was at the forefront of bringing SDM to Louisiana, with the help of: People First of Louisiana, Disability Rights Louisiana, The Office for Citizens with Developmental Disabilities, and the Louisiana Department of Health.



Supported Decision-Making as an Alternative to Interdiction

Full Interdiction

Full Interdiction is the Most Restrictive Remedy. It has been described by the Supreme Court as a “**Civil Death**.” It is often more sweeping in its effect than necessary. All of an individual’s legal rights are transferred to another person.

Rights Lost

- Right to contract;
- Right to marry;
- Right to accept or renounce succession;
- Right to sue or be sued;
- Right to vote;
- Other rights (e.g. drive; consent to medical treatment; leave the State w/o permission).

Limited Interdiction

Less intrusive than full interdiction. Limited interdict retains all rights except those *specifically granted to another in the judgment*. La. C.C.P. art. 4551(B)

Court confers only those powers required to *protect the interests* of the interdict. La. C.C. art. 392

The New Alternative

It’s never too early to start thinking about using Supported Decision-Making. Asking an individual with a disability where and with whom they would like to live, or what kind of job they would like, can help set the foundation for Supported Decision-Making. **Note that just because someone makes a poor decision does not mean that he or she is unfit to make decisions altogether.** We all make bad decisions, even after seeking support from our friends and family. All people should have opportunities to learn from their mistakes. Decision-making is a skill that must be learned and practiced over time. For the first time in Louisiana, someone seeking interdiction will have to prove to the courts that a “Less Restrictive” means was tried, or if not tried why it wasn’t tried.

Explore **ALL** least restrictive supports first. Instead of focusing on what a person is unable to do, pay attention to their strengths. **A person with a disability should experience responsibility instead of being shielded from their Constitutional Right of decision-making.** You should explore informal supports and seek assistance from disability agencies that may offer skill-building and technical assistance.

When considering the barriers to independence, ask whether they can be lessened by measures like assistive technology, training, opportunities to socialize, role-playing, and other means. Consider the person's communication methods, mental state, access to stimulating environments, adequacy of supports, and side effects from medication before deciding that an individual is unable to make decisions.

Chapter 2: Other Alternatives to Interdiction

In addition to Supported Decision-Making, there are many other options to consider that are less restrictive than Interdiction. Below are some examples. They can all be used to promote independence and can be part of Supported Decision-Making.

Power of Attorney

A Power of Attorney is a document that allows one person (an "Representative") to make certain types of decisions on behalf of another person (the "Grantor"). The Grantor signs a document, called the Power of Attorney, to allow the Representative to make certain types of decisions for the Grantor. A Power of Attorney does not take away decision-making authority from the Grantor; it merely shares the decision-making authority with the Representative. The title "Power of Attorney" can be confusing, because neither the Grantor nor the Representative needs to be an attorney. A Power of Attorney usually authorizes a Representative to make medical decisions (called a Healthcare Power of Attorney) or financial decisions (called a Financial Power of Attorney). In Louisiana, a Power of Attorney is also called a **Mandate**.

A Power of Attorney can be customized depending on when and under what circumstances a Grantor would like assistance. For example, a Grantor might only want his/her Representative to be able to make healthcare decisions if the Grantor is unable to do so themselves. A Healthcare Power of Attorney might specify what kind of end-of-life decisions a Grantor would like taken if they are unable to make those kinds of decisions themselves. In Louisiana, this is called an Advanced Healthcare Directive. Some people also refer to this type of document as a Living Will.

A Power of Attorney is less restrictive than an Interdiction because it involves a Representative sharing decision-making authority with a Grantor, whereas an Interdiction takes away decision-making authority from one person and transfers it to another. The Grantor can revoke the Power of Attorney at any time, meaning it can be canceled. Powers of Attorney generally do not require court approval to create or to cancel.

Release of Information

It is against the law for certain types of providers such as medical providers, banks, or schools, to share personal information about their patients/clients with others. Signing a release allows a provider to share information with another person of an individual's choosing. For example, a client/patient may sign a release to allow their doctor to speak to their parents about personal health care information. Or, a person may sign a release with the school to share certain information with their parents. A release does not allow the other person to make decisions for the individual; it only allows information to be shared. A release can be changed or revoked by the person at any time by letting the provider know. It is recommended that this issue be included in the Supported Decision-Making Agreement.

Special Needs Trust

It is a trust tailored to a person with a disability that is designed to manage assets for that person's benefit while not compromising access to important government benefits.

What's the difference between an ABLE and a SNT?

- An Able account is a savings account that only money may be deposited into. Costs NOTHING to set up. A SNT is a trust that may contain any type of asset imaginable (e.g., house, stocks, bonds, money from inheritance or legal settlement, etc.)
- A Special Needs Trust must be created by an attorney so there is a cost

Representative Payee Program

Offered through the Social Security Administration, this program allows a representative to manage a beneficiary's Social Security or SSI payments. A representative may be responsible for using benefits to pay an individual's expenses and keeping track of expenditures. Typically, a family member or other trusted adult is chosen to act in this role. However, one may be appointed through the Administration.

Medical Consent Law

Hierarchy of Consent for Surgical/Medical

- Adult, for himself.
- Judicially appointed curator/tutor.
- Spouse.
- Adult child of patient.
- Parent.

- Sibling.
- Other relatives.
- La. R.S. 40:1299.53

Able Account

A tax-advantaged savings account for individuals with disabilities and their families. Legislation describes it as: “secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, Medicaid, SSI, the beneficiary’s employment and other sources” www.able.osfa.la.gov



Examples of Options to Address Various Needs Related to Decision-Making:

Need	Task	Can this be accomplished by?
Money Management	<ul style="list-style-type: none"> • Learning to recognize and prevent exploitation • Managing accounts, assets, and benefits 	<ul style="list-style-type: none"> • Money-managing app on phone • Seeking financial counseling • Representative Payee Program • Conservatorship or trust
Healthcare	<ul style="list-style-type: none"> • Taking medications as needed • Maintaining hygiene and diet • Avoiding high-risk behaviors • Making decisions about medical treatment 	<ul style="list-style-type: none"> • Using apps to help remember to take medication and perform hygiene tasks • Getting advice from professionals • Visiting a healthcare professional to discuss information regarding prevention and safety • Allowing a home health aide to assist in daily living tasks • Having individual sign HIPAA release • Obtaining Healthcare Power of Attorney or Living Will
Employment	<ul style="list-style-type: none"> • Looking for, gaining, and retaining employment 	<ul style="list-style-type: none"> • Enrolling in job coaching services, such as supported employment programs • Using Vocational Rehabilitation, Medicaid waiver services, or other employment providers to become job-ready
Relationships	<ul style="list-style-type: none"> • Behaving appropriately with friends, family, and co-workers • Making decisions about sexual relationships 	<ul style="list-style-type: none"> • Role-playing and practicing appropriate behavior • Visiting a health center to learn more about contraception • Speaking with loved ones about healthy relationships
Community Living	<ul style="list-style-type: none"> • Living independently • Maintaining habitable conditions • Accessing community resources 	<ul style="list-style-type: none"> • Incorporating adaptive and assistive technology • Setting reminders to complete home maintenance tasks • Making a list of community resources, such as transportation

Personal Decision-Making	<ul style="list-style-type: none"> • Understanding legal documents (contracts, leases, powers of attorney) • Communicating wishes • Understanding legal consequences of behavior 	<ul style="list-style-type: none"> • Allowing supporters to help explain contracts and other legal documents • Having the individual demonstrate understanding of consequences, such as through role-playing • Seeking advice from professionals
Personal Safety	<ul style="list-style-type: none"> • Avoiding common dangers • Recognizing and avoiding abuse • Knowing what to do in an emergency 	<ul style="list-style-type: none"> • Role-playing scenarios, such as what to do in case of fire • Discussing signs of healthy and unhealthy relationships and abusive behaviors • Writing down emergency numbers



Chapter 3: Self-Advocacy in Supported Decision-Making

Sometimes, the most valuable support is helping a person with a disability advocate for themselves. Advocating for yourself means letting other people know what you want, don't want, and need, or don't need. All people have civil rights. All people have the right to make decisions about their own lives, including where they work, live, and with whom they spend time with. All people have the right to vote and get married if they choose. All people have the right to make decisions about medical treatment and medication.

Most of us need help making decisions, so we turn to those we trust to support us. For example, you might want your parents to be able to come into the exam room with you at the doctor's office so they can ask any questions you may forget to ask. Or, you may want a family friend to help you with finances because paying the bills and keeping track of how your money is spent can be difficult.

A Supported Decision-Making Agreement lets others know who will help you, with what areas you want support, and what that support will look like. Remember, just because you may need help in some areas does not mean you are unable to make decisions for yourself! Like any skill, decision-making takes practice!

Supported Decision-Making and Transition Planning

Supported Decision-Making is intended for adults (18 years of age) with disabilities. But the earlier a person and their supporters start learning about and using Supported Decision-Making, the better! It is never too early to begin learning the skill of decision-making.

Supported Decision-Making can and should be part of the process of transition planning. Transition planning begins no later than **16** years of age. In Louisiana, turning age 18, also called the "age of majority." This means that all of the rights and responsibilities formerly held by the young adult's parents or guardians are transferred to the young adult. All young adults when they turn 18 are considered to be a "**Competent Major**" unless the courts say otherwise. The young adult can now legally consent to medical care, make financial decisions, get married, and enter into legal

contracts such as leases. When they turn 18, young adults who receive special education services are now the decision-makers with regard to Individualized Education Plans (IEPs) and transitioning to adult services. Turning 18 does not mean that a young adult can't access supports. To the contrary, Supported Decision-Making encourages young adults to identify areas where they need support and to identify people to help them. A student may decide to use Supported Decision-Making as part of their Individualized Education Plan (IEP), and notify their team who their supporters are, request that the school share information with their supporters, and inform their supporters of upcoming meetings.

Supported Decision-Making for People Already Under Interdiction

While Supported Decision-Making may be a tool that can prevent a person from coming under Interdiction, it can also be a useful tool for people already under Interdiction. Supported Decision-Making can help a person under Interdiction be more involved in decision-making. The end result might be ending the Interdiction, limiting the Interdiction, or otherwise giving people subject to Interdiction more control and self-determination over their own lives.



Chapter 4: Identifying Which Types of Decisions Need Support and What Kind of Support Is Wanted

There are several areas of life in which a person might need support with making decisions. Some examples might be; decisions involving finances, healthcare, education, employment, housing, social life, relationships, or legal matters. The Decision-Maker needs to think about which kinds of decisions they can make alone, and which might require some support.

Thinking about what kind of decisions you might need support with should lead to thinking about what kind of support you would like. There are many types of support available to help a person make decisions. Some kinds of support are:

- Support in gathering information needed to make a decision
 - For example, you might want help with gathering information about available apartments in order to make a decision about where to live.
- Support in understanding information
 - For example, you might want help understanding the language in a lease in order to decide whether to sign it. Or, you might want help understanding what a doctor is recommending in order to decide on medical treatment.
- Support in understanding the consequences of different decisions
 - For example, it might be helpful to make a list, or discuss pros and cons to making a particular decision.
- Role-playing activities to help understand choices
- Bringing a supporter to personal appointments, such as doctor appointments, in order to take notes and help you remember information and discuss your options
- Advocating for extra time to think about choices and make decisions
- Taking classes to learn about healthy choices, such as classes about healthy relationships, or learning about finances
- Identifying technology that might increase independence
 - For example, there are payment apps that can make automatic payments to regular bills, budgeting software, or calendar reminders.
- Helping you communicate your decision to others
- Helping to make sure your decisions are carried out



When Do I Want Support and What Kind of Support Do I Want?



You might want different types of support with different types of decisions. Supported Decision-Making Agreements are meant to be individualized so that the Decision-Maker is getting exactly the type of support he or she would like to have.


The following chart can help you decide what kind of decisions you would like support with, and what kind of support you would like.

On the next page there is a chart that you may use. Simply check the boxes to say if you need support in each area, though not every category may be applicable to you. When you check the "I need some support" box, you should think about who you might want to support you, and write what kind of support you want/need under the corresponding box. You can use the information in this form to help you fill out a Supported Decision-Making Agreement.



	I can do this alone	I need some support	What kind of support do I need?
 Money Management			
Paying the rent and bills on time (for example, cell phone, electricity, internet)			
Keeping a budget so I know how much money I can spend			
Making big decisions about money (for example, opening a bank account, signing a lease)			
Making sure no one is taking my money or using it for themselves			
 Healthcare			
Choosing when to go to the doctor or the dentist			
Making medical choices in everyday situations (for example, check-up, medicine from the drug store)			
Making medical choices in serious situations (for example, surgery, big injury)			
Making medical choices in an emergency			
Understanding how healthcare costs are covered (for example, Medicaid, private insurance)			
Making choices about birth control or pregnancy			
Remembering to take medicine			
Making decisions about maintaining a healthy lifestyle			

	I can do this alone	I need some support	What kind of support do I need?
 Education			
What classes I will take			
What accommodations I need at school			
Deciding what college to attend or what to do after high school			
Telling people what I want and don't want			
Telling people how I make choices			
Making sure people understand what I am saying			
 Employment			
Choosing if/where I want to work			
Understanding my work choices			
Choosing classes or training I need to get a job I want, and taking these classes			
Applying for a job			
Going to my job everyday			
Knowing what accommodations, I need at work and how to request them, and make sure they are being given			
Understanding the employee handbook or work policies			
Relationships			
Making choices about sex			

	I can do this alone	I need some support	What kind of support do I need?
Choosing if I want to date, and who I want to date			
Making choices about marriage			
Community Living			
Choosing where I want to live			
Choosing who I live with (roommates)			
Choosing what to do and who to see in my free time			
Keeping my room or house clean			
Finding support services and hiring and firing direct support staff			
Traveling to places I go often (for example, getting to work, stores, friends' homes)			
Traveling to places I do not go often (for example, doctor's appointments, special events)			
Choosing what I wear			
Getting dressed			
Taking care of my personal hygiene (for example, showering, bathing, brushing teeth)			
Choosing what to eat, and when to eat			
 Legal Matters			
Talking to an attorney if I need one			
Help understanding my rights			
Signing contracts and formal agreements			

Chapter 5: Choosing Supporters

Choosing supporters might be the single most important part of Supported Decision-Making. For some people, this might be the easiest choice to make, and for others, this might be the most difficult part of the Supported Decision-Making journey. The most important thing to remember is that it is **ALWAYS** the Decision-Maker who chooses their supporters. Supporters should always be people that the Decision-Maker knows and trusts to provide the type of support they want for the types of decisions they want support with. In other words, good supporters will always follow the plan set forth in the Supported Decision-Making Agreement, and will never substitute their own choices for those of the Decision-Maker.

Supporters can be family members, friends, neighbors, service coordinators, advocates, church members, professionals in the community, or anyone else the Decision-Maker wants involved. Decision-Makers can assign certain supporters to certain types of decisions and not others. For example, a person may want their friend to provide support for decisions about housing, but may want their sister to provide support for decisions about finances. A person can choose as many, or few supporters as they want. Decision-Makers can fire their supporters at any time, and supporters have the option of quitting at any time as well. No one should force the Decision-Maker into choosing him or her as a supporter. Supporters should not help make decisions in areas that the Decision-Maker did not agree to, and they should never make decisions for the Decision-Maker. **The Decision-Maker is at the center of the Supported Decision-Making Agreement at all times!**

Talking to Potential Supporters

Once a person chooses whom they trust to help support them make decisions, they need to find out if the potential supporter is able and willing to help. The Decision-Maker needs to:

- Share what areas in which they would like support
- Share how they would like to get that support
- Share a sample Supported Decision-Making Agreement

It is crucial that the potential supporter fully understands what is involved, and be able and willing to fulfill the role of supporter.

Sometimes it can be difficult to identify potential supporters. Not everyone has a solid network of support in place. If this is the case, it will be important to consider how to

create relationships and build up a network of people that could provide support. Think about ways in which relationships are made. Are there family members who might make good supporters? What about attending community events, seeking out organizations that match people up with mentors. Look for supports at places of worship or school, or other places where relationships can be made. It can take time to build healthy and trusting relationships with potential supporters, but it can also be very worthwhile.



Everyone benefits from having community support, whether or not it is for the purposes of Supported Decision-Making!

Chapter 6: Filling out a Supported Decision-Making Agreement

Once a Decision-Maker has thought about what kind of decisions they would like support with, what kind of support they want, and who their supporters will be, it's time to complete the Supported Decision-Making Agreement. You will find [Sample SDM Agreement.docx](#) in this Guide, but you do not have to use it, or any other pre-developed document. The Decision-Maker should meet with their supporters, either one at a time, or all at once, depending on what works best. They should go over the Agreement page-by-page and make sure that everyone understands and agrees upon what is in the Agreement. It is just as important for supporters to understand what kind of help the Decision-Maker does **not** want as it is for them to understand what kind of help is wanted.

Once the Agreement is completed, everyone needs to sign the Agreement. Signing the Agreement means that everyone understands and promises to do their best to honor what it says. The Decision-Maker should not sign the Agreement until she is in front of a **notary**. A notary is a type of witness when official documents are signed. The notary makes sure that the person signing the Agreement is who they say they are, and also makes sure that the person signing is not being pressured or forced to sign something that they do not want to sign. Banks, post offices, and law offices usually have people who are able to **notarize** documents. Sometimes they charge a small fee, but many times you can find one to do it for free.

Remember that a Supported Decision-Making Agreement is a "living document." This means that it can be changed whenever wanted or needed. A few examples are: A Decision-Maker may want to change a supporter, or have a different type of support in making a certain kind of decision. A supporter may decide to drop out. Or, a new supporter may be identified. The Supported Decision-Making Agreement is meant to be easy to change. The most important thing is that the Decision-Maker is getting the kind of support they want in the areas they want it, from the people that they want.

Once the Supported Decision-Making Agreement (SDMA) is signed, and notarized the team is ready to use Supported Decision-Making! The Decision-Maker and the supporters should each have a copy of the Agreement at all times. It's also a good idea to share the SDMA with doctors, banks, or others who will be expected to acknowledge and honor the Agreement.



The Arc of Louisiana advocates with and for all people with intellectual and related developmental disabilities and their families so that they shall live to their fullest potential.

Under the Louisiana law, the individual can use the form below or any form that that the individual chooses to use. This form is just a sample.

Supported Decision Making Agreement

This agreement is governed by the Dustin Gary Act, also known as Supported Decision-Making, R.S. 13:4261.101 through 4 4261.302 of Louisiana Statute. This supported decision-making agreement is to support and accommodate an individual with a disability to make life decisions, including decisions related to where and with whom the individual wants to live, the services, supports, and medical care the individual wants to receive, and where the individual wants to work, without impeding the self-determination of the individual with a disability.

This agreement may be revoked by the individual with a disability or his or her supporter at any time. If either the individual with a disability or his or her supporter has any questions about the agreement, he or she should speak with a lawyer before signing this supported decision-making agreement.

I (Name of Adult with Disability), _____ am entering into this agreement voluntarily.

I choose (Name of Supporter) _____ to be my Supporter.

Supporter's Address: _____

Phone Number: _____

E-mail Address: _____

My Supporter may help me with life decisions about:

- obtaining food, clothing and a place to live: Yes ___ No ___
- my physical health: Yes ___ No ___
- my mental health: Yes ___ No ___
- managing my money or property: Yes ___ No ___
- getting an education or other training: Yes ___ No ___
- choosing and maintaining my services and supports: Yes ___ No ___
- finding a job: Yes ___ No ___
- Other: _____

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My Supporter does not make decisions for me. To help me make decisions, my Supporter may:

1. Help me get the information I need to make medical, psychological, financial, or educational decisions.
2. Help me understand my choices so I can make the best decision for me.
3. Help me communicate my decision to the right people.

Yes ___ No ___ My Supporter may see my private health information under the Health Insurance Portability and Accountability Act of 1996. I will provide a signed release.

Yes ___ No ___ My Supporter may see my educational records under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). I will provide a signed release.

This agreement starts when signed and will continue until _____ (date) or until my Supporter or I end the agreement or the agreement ends by law.

Signed this _____ (day) of _____ (month), _____ (year)

(Signature of Adult with Disability)

(Printed Name of Adult with Disability)



The Arc of Louisiana advocates with and for all people with intellectual and related developmental disabilities and their families so that they shall live to their fullest potential.

Consent of Supporter

I (Name of Supporter), _____ consent to act as a Supporter under this agreement.

(Signature of Supporter)

(Printed Name of Supporter)

This agreement must be signed in front of two witnesses a Notary Public.

(Witness 1 Signature)

(Printed Name of Witness 1)

(Witness 2 Signature)

(Printed Name of Witness 2)

Notary Public State of _____ Parish of _____

This document was acknowledged before me on _____ (date)

By _____ (Name of Adult with a Disability)

and _____ (Name of Supporter)

(Signature of Notary)

(Printed Name of Notary)

(Seal, if any, of notary) My commission expires: _____

--- WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY If a person who receives a copy of this agreement or is aware of the existence of this agreement has cause to believe that the adult with a disability is being abused, neglected, or exploited by the supporter, the person shall report the alleged abuse, neglect, or exploitation to Adult Protective Services (APS) is responsible for investigating reports and arranging for services to protect vulnerable adults ages 18-59 and emancipated minors who are at risk of abuse, neglect, exploitation or extortion. Reports of adult abuse may be made 24 hours a day, seven days a week, to 1.800.898.4910(toll-free)

Chapter 7: Potential Barriers

Utilizing Supported Decision Making can be a rewarding and positive experience. It is exciting to see a person gain new skills and confidence to make decisions and to exercise choice and control in their lives. However, problems can arise! There are many potential barriers to decision making. Historically, people with disabilities have often experienced limited options or resistance from others when wanting to make their own decisions. Lack of information or experience are also barriers to decision making.

Lack of supporters

Some people with a disability have very limited social networks, limited natural supports, and might need assistance to identify supporters. It may take time to develop a supported decision-making relationship. Helping the individual to identify existing supports, friendships or other relationships that could be strengthened over time, is one option. You might try to refer the decision maker to advocacy organizations, or other volunteer services that may be able to introduce them to a potential new supporter. For parents in this situation, it is very easy for you to fall into a supporter role, and in practical terms it may be the only option if a decision is needed in the near future. If you find yourself taking on a more direct role as a decision-making supporter, take time to consider the implications of this role, including your time, availability and the impact on your other roles with the decision maker.

The supported decision-making relationship ends

Supported decision making relationships can end for a variety of reasons. The supporter may not have the time or willingness to continue the relationship. There may be a conflict of interest or a fundamental difference in values and beliefs that prevent the supporter and the decision maker from working together. The supporter may be a paid worker who moves on to another job or career option. You can encourage the supporter and the decision maker to end the relationship on a positive note by talking about the reasons why the relationship is ending and agreeing on how to end contact. You may then need to assist the decision maker to find new supporters.

When the supporter goes outside their role

You might notice that the supporter is acting outside their role or abusing their trusted relationship with the decision maker. This could range from trying to influence the decision maker to make a certain decision, imposing their own values and beliefs or abusing or exploiting the decision maker. You may need to discuss your concerns with the supporter and take action to remedy the situation. Action could include providing more education or training, or meeting with the decision maker to explain your concerns. If you have serious concerns about possible abuse, you **MUST** contact Adult Protective Services!! Misuse of the supporter role is less likely to occur when the supporter and the decision maker have access to education and information about their roles.

Other safeguard strategies include:

- Encouraging the decision maker to have other people in their lives who are interested
- Ensure the decision maker has access to information or education about their other rights to be safe, free from abuse and to make their own decisions

Disagreements

Disagreements can arise for a number of reasons. It could be that the supporter and the decision maker do not agree on a decision or the options available. The decision maker could end up in conflict with a parent or caregiver because of a decision they wish to make. It is crucial that the SDM Team work together and ensure that the Decision Maker is supported at **ALL** times!

Conflicts of interest

Sometimes, a conflict of interest may arise for the supporter in their role. For example, a supporter who works for a Provider Agency may have a conflict of interest in supporting the decision maker to decide whether to leave the agency. These conflicts may be so significant that the supporter will need to step aside. If this happens, the decision maker will need to find a new supporter.

Additional Resources

National Resource Center for Supported Decision-Making

National and local resources and information about Supported Decision-Making

<http://supporteddecisionmaking.org>

202-448-1448

American Civil Liberties Union Disability Rights Program

www.aclu.org/supported-decision-making-resource-library

Center for Public Representation Supported Decision-Making Pilot Project

www.supporteddecisions.org

Autistic Self-Advocacy Network (ASAN)

The Right To Make Choices, a series of very detailed, Easy Read documents ASAN put together to provide self-advocates with an overview of SDM and some of the many different options available.

<https://autisticadvocacy.org/2016/02/the-right-to-make-choices-new-resource-on-supported-decision-making/>

PRACTICAL Tool for Lawyers: Steps in Supported Decision-Making

Helps lawyers identify and implement decision-making options for persons with disabilities that are less restrictive than guardianship.

www.ambar.org/practicaltool

The Arc US

<https://thearc.org/?s=supported+decision+making>

Funded by The Louisiana Developmental Disabilities Council

www.laddc.org



Louisiana Developmental
Disabilities Council