

Supported Decision-Making Walk-Through

Supported Decision-Making (SDM) is a rights-based model in which people with disabilities keep their legal rights and make their own decisions, with assistance from trusted people of their choosing rather than having a guardian or legal substitute decision-maker make decisions for them. SDM is an alternative to guardianship — and increasingly a required alternative under federal law and disability rights frameworks.

Content

Supported Decision-Making Walk-Through

Resource type: Tier 1 Flagship — Methodology / Framework

Adapted from: UN Convention on the Rights of Persons with Disabilities (2006); National Resource Center for Supported Decision-Making; ACLU Disability Rights; 42 CFR §441.301 (HCBS Settings Rule); Minnesota Statutes

Library home: L07 Disability Services Practice Library

Companion to: T04_07 Person-Centered Planning; T04_09 LifeCourse Framework; T04_06 SAMHSA TIP

What this framework is

Supported Decision-Making (SDM) is a rights-based model in which people with disabilities keep their legal rights and make their own decisions, with assistance from trusted people of their choosing rather than having a guardian or legal substitute decision-maker make decisions for them. SDM is an alternative to guardianship — and increasingly a required alternative under federal law and disability rights frameworks.

Disability Rights New Jersey describes SDM (<https://disabilityrightsnj.org/resource/supported-decision-making/>) as grounded in self-determination: "the idea that people with disabilities have the right to make choices about their lives, including where they live, what they eat, how they spend their time, and how they spend their money."

The ACLU's guidance (<https://www.aclu.org/issues/disability-rights/integration-and-autonomy-people-disabilities/supported-decision-making>) summarizes the core distinction: in guardianship, another person makes choices for the individual; in supported decision-making, the individual makes their own choices, supported by trusted people who help them understand information, think through options, and communicate their decisions.

SDM does not require a formal legal agreement, though some states and contexts provide for SDM agreements. It can be as informal as an individual identifying trusted people who will help them make decisions — a friend who helps them understand medical information, a family member who helps them

review lease agreements, a peer mentor who helps them advocate at planning meetings.

Why DSD uses this framework

DSD's services are primarily governed by the HCBS Settings Rule (42 CFR §441.301), which explicitly requires that DSD-funded services optimize "individual initiative, autonomy, and independence in making life choices." This is not aspirational language; it is a regulatory requirement that has real enforcement implications.

The disability rights movement — and federal policy reflecting decades of advocacy — has moved decisively toward recognizing that most people with disabilities, including those with significant intellectual or developmental disabilities, can and should make their own decisions with appropriate support. Guardianship — historically the default response to concern about decision-making capacity — has been extensively documented as overused, disproportionately imposed, and deeply harmful to the people it is intended to protect.

The ACLU (<https://www.aclu.org/issues/disability-rights/integration-and-autonomy-people-disabilities/supported-decision-making>) documents that "guardianship is a legal proceeding that strips an individual of multiple or ALL rights" and that "once a guardianship is created, it can be almost impossible to undo." DSD staff play a critical role in supporting SDM as an alternative and in ensuring that service systems do not inadvertently or deliberately steer people toward guardianship when SDM would meet their actual needs.

The core concepts (plain language with citations)

What supported decision-making actually looks like

SDM is, at its core, a description of what happens when people make decisions in the context of trusted relationships — which is how most human beings make important decisions, with or without a disability label. The ACLU explains (<https://www.aclu.org/issues/disability-rights/integration-and-autonomy-people-disabilities/supported-decision-making>): "people with disabilities have supporters who help them make their own choices. A person using supported decision-making appoints trusted advisors, such as friends, family, or professionals, to serve as supporters. The supporters help the person with a disability understand, make, and communicate her own choices."

Concrete examples:

- A person with an intellectual disability who wants to sign a lease agreement brings their sibling to read the contract with them and explain the terms. The sibling does not sign on their behalf; they help them understand what they are signing. The person signs.
- A person with a traumatic brain injury who has difficulty processing complex medical information brings a trusted friend to medical appointments who takes notes, asks clarifying questions, and helps the person recall what was discussed afterward. The person makes their own treatment decisions.
- A person with autism who has difficulty in meetings that move quickly has a peer mentor attend their service planning meetings, signal them when to slow down, and help them communicate their preferences

clearly. The plan reflects their preferences.

SDM vs. guardianship — the critical distinction

Guardianship — Supported Decision-Making

A court determines the person lacks capacity to make decisions — The person retains decision-making capacity

A guardian makes decisions on the person's behalf — Supporters help the person make their own decisions

The person's legal rights are suspended or removed — The person's legal rights are preserved

Decision-making authority is transferred — Decision-making authority remains with the person

Often permanent and difficult to reverse — Can be adjusted as the person's support needs change

Strips personhood in significant ways — Affirms personhood and autonomy

It is important to note that guardianship is sometimes appropriate — in situations of genuine incapacity and where less restrictive alternatives have been inadequate. The problem is not guardianship per se; it is the overuse of guardianship as a default, the failure to explore SDM alternatives, and the frequent failure to review or terminate guardianship when it is no longer needed.

DSD's role is not to oppose guardianship categorically, but to ensure that SDM is always explored, that guardianship is not imposed as a default, and that every person in DSD services is supported to exercise the maximum decision-making authority consistent with their needs.

What decision-making support can look like

SDM supporters can provide different types of assistance, including:

- Information support: Helping the person understand complex information — medical, legal, financial, administrative — in accessible language and format.
- Communication support: Helping the person communicate their decision to others, including in formal settings.
- Processing support: Giving the person time and space to think through a decision, ask questions, and revisit if needed.
- Advocacy support: Helping the person ensure their preferences are heard and respected in institutional settings.
- Relationship support: Maintaining connection with people who know the person well and can help interpret their preferences when communication is complex.

Decisional capacity vs. competence

Decisional capacity is the functional ability to make a specific decision at a specific time — to understand relevant information, appreciate consequences, reason about options, and communicate a preference. Capacity is decision-specific and time-specific: a person may have capacity for some decisions and not

others, and may have capacity at some times and not others. Capacity is not a fixed trait.

Competence is a legal concept determined by a court. It is not synonymous with capacity.

DSD staff are not competence adjudicators. Their role is to support people in exercising their capacity, to adapt how information is presented to maximize understanding, and to ensure that service systems do not treat low verbal communication ability or behavioral expression as absence of preferences.

HCBS Settings Rule alignment

The HCBS Settings Rule explicitly requires that:

- Services support "individual initiative, autonomy, and independence in making life choices."
- The setting "optimizes individual initiative, autonomy, and independence."
- Rights are documented and can only be limited based on individual assessed need, with the limitation documented in the person-centered service plan and reviewed over time.

The NJ DDD guide (<https://nj.gov/humanservices/ddd/assets/documents/providers/DDD-Provider-Guide-to-HCBS-Settings-Rule-Final.pdf>) clarifies that "the HCBS Final Settings rule are designed to ensure that people with disabilities living in the community have access to the same kind of choice and control over their lives as those who do not receive Medicaid HCBS funding."

This means: restricting decision-making for a person receiving HCBS services is not a default; it requires specific, individualized, documented justification — and even then, the least restrictive approach must be used.

DSD staff role in supporting SDM

In planning meetings:

- Ask the person who they want to help them understand the plan and communicate their preferences — and make space for those people to be present.
- Present information in plain language, with visual supports if helpful, and with adequate time for the person to process.
- Never substitute a guardian's or family member's stated preferences for the person's own stated preferences without clear evidence that the person cannot form a preference.
- When a guardian is present, ensure the person's voice is still directly heard — not just the guardian's.

In daily support:

- Give the person real choices in daily life — not choices between two pre-approved options, but choices that reflect actual agency.
- Notice when the person is communicating a preference through behavior, not just words, and document it as evidence of their preferences.
- Support the person to practice and develop their decision-making over time. Decision-making is a skill, and it develops through supported practice.

In service design:

- Design service processes that assume the person has decision-making capacity unless specifically documented otherwise.
- Treat family and guardian input as supplementary to, not substitutive of, the person's own voice.
- Document instances where a person's stated preferences were honored and the outcome — to build an evidence base for SDM fidelity in DSD services.

What it looks like in DSD practice

Scenario 1 — Transition planning:

A young woman with Down syndrome is turning 21. Her parents want her to live in a group home. She has expressed — through conversation, through behavior at her current program, and through her relationship with a peer mentor — that she wants to live with a roommate in an apartment. A person-centered approach to this transition begins with her vision, supports her to articulate it clearly, and explores what SDM supports would help her navigate apartment living. It does not automatically defer to her parents' preference, even though they are well-intentioned and loving.

Scenario 2 — Medical decision:

A man with autism and limited verbal communication is being asked to consent to a dental procedure. The dental team assumes he cannot consent because he does not speak. His DSP, who knows him well, explains that he communicates through AAC (augmentative and alternative communication) and that he has strong preferences and fears around medical settings. The DSP facilitates a process in which the dental team uses pictures to explain the procedure, gives him ample time to process, and allows him to communicate consent through his device. He consents, with support.

Scenario 3 — Financial decision:

A person with a cognitive disability wants to spend their discretionary income on a specific hobby. Their guardian believes the money should be saved. A SDM framework asks: What does this person want? Has the guardian appropriately explained the financial implications? Is the person's preference informed? If the person understands the trade-off and still prefers to spend on their hobby, their preference should prevail for their own discretionary funds — this is their money, their decision, their life.

How to apply this in your role

As a DSP:

- Offer choices before acting on behalf of the person.
- When a person's preference is unclear, take time to learn it — through observation, through trying different communication approaches, through consulting with people who know them well.
- Resist the impulse to decide what is "better for" the person when that decision is theirs to make.

As a case manager:

- Before recommending guardianship, ask: "What SDM supports have we tried? What would help this person make this decision with support?"
- Document the decision-making support the person currently has and identify gaps.

- Include SDM goals in person-centered plans: "What decision-making skills and supports does this person want to develop?"

As a supervisor:

- Create a culture in which staff are recognized for supporting autonomy, not for making decisions on people's behalf.
- Address instances where staff make decisions for people without exhausting SDM options.

Common misconceptions

"SDM is only for people with mild disabilities." SDM applies across the disability spectrum. The form and intensity of support varies; the principle does not. Even people with the most significant disabilities have preferences — they communicate them through behavior, response, and relationship.

"If someone is under guardianship, SDM doesn't apply." Guardianship does not eliminate the person's preferences or DSD's obligation to support them in exercising as much autonomy as possible. Even people under guardianship have rights; guardianship does not give guardians unlimited authority.

"SDM means the person always gets what they want, regardless of safety." SDM includes honest information about risks and consequences. Supporters' role is to inform, not to override. And "safety" decisions in disability services have historically been overused to restrict autonomy. The standard is genuine risk, not discomfort with choice.

Connection to other frameworks

- Person-Centered Planning (T04_07): SDM is the rights framework; PCP is the planning process. Together they form the legal and practical architecture of self-determination in DSD services.
- LifeCourse Framework (T04_09): LifeCourse explicitly includes SDM as a life domain support strategy, particularly in the Safety/Security domain. The LifeCourse vision — "all people have the right to live, love, work, play" — is only realized when people can make their own decisions.
- Trauma-Informed Practice (T04_06): TIP's empowerment principle (Principle 5) is the experiential dimension of SDM's rights framework. Both insist that the person is the primary agent of their own life.
- Intersectionality (T04_11): Guardianship and SDM interact with race, gender, and class. Research documents that guardianship is disproportionately imposed on Black and Latino individuals with disabilities; this is an intersectional equity concern for DSD.

Connection to DSD's six program goals

DSD Goal — SDM Connection

Goal 1 — Eliminate Disparities — Disparate imposition of guardianship across racial and ethnic groups is a documented disparity. Centering SDM is a disparity-reduction strategy.

Goal 2 — Community Engagement — Genuine community integration is only possible when people have the autonomy to choose their community connections — which requires SDM supports, not guardian control.

Goal 3 — Hiring and Retention — Organizations that model respect for autonomy attract and retain staff who share that value.

Goal 4 — Learning and Development — SDM skills — for both people receiving services and DSD staff — are core competency development areas.

Goal 5 — Contracts and Procurement — DSD contractors are required to support SDM as part of HCBS compliance. Contract performance standards should include SDM fidelity.

Goal 6 — Communication and Accessibility — Accessible communication is a precondition for genuine SDM: a person cannot make informed decisions without accessible information.

When to escalate / where to refer

- For guardianship alternatives exploration: Connect with the person's attorney (if they have one), the Minnesota Disability Law Center, or Arc Minnesota.
- For information on SDM agreements in Minnesota: Contact the One DSD Resource Hub for current Minnesota-specific SDM resources.
- For HCBS Settings Rule compliance concerns: Escalate to your supervisor and program manager.
- For concerns about overriding a person's expressed preferences: Escalate to your supervisor; this is a rights concern and may require legal consultation.
- National Resource Center for Supported Decision-Making: <https://supporteddecisionmaking.org>

Reflective questions for your practice

1. In a recent service interaction, how many real choices did the person actually make — choices between options they generated, not choices from a pre-approved menu?
2. When was the last time you supported someone to make a decision you personally thought was unwise? What did you do?
3. If someone you support is under guardianship, how much do you know about what they want — separate from what their guardian wants?
4. What conditions in your service environment make it harder for people to exercise decision-making authority? What would it take to change them?
5. When you see a person behaving in a way that seems challenging or confusing, what is your first question — about what they are communicating, or about how to respond?

Sources

- Disability Rights New Jersey. (2025). Supported Decision-Making. <https://disabilityrightsnj.org/resource/supported-decision-making/>
- ACLU. (2025). Supported Decision Making & the Problems of Guardianship. <https://www.aclu.org/issues/disability-rights/integration-and-autonomy-people-disabilities/supported-decision-making>
- National Resource Center for Supported Decision-Making. <https://supporteddecisionmaking.org>
- Centers for Medicare & Medicaid Services. (2014). HCBS Settings Rule. 42 CFR §441.301.
- NJ DDD. (2021). Provider Guide to HCBS Settings Rule. <https://nj.gov/humanservices/ddd/assets/documents/providers/DDD-Provider-Guide-to-HCBS-Settings-Rule-Final.pdf>
- LifeCourse Nexus. Supported Decision-Making in the Life Domains. <https://www.lifecoursetools.com/>

lifecourse-library/exploring-the-life-domains/

- United Nations Convention on the Rights of Persons with Disabilities (CRPD). Article 12 — Equal recognition before the law. (2006).
- Shogren, K. A., et al. (2017). Self-determination and supported decision making. *Intellectual and Developmental Disabilities*, 55(1), 54–64.
- Bach, M., & Kerzner, L. (2010). A new paradigm for protecting autonomy and the right to legal capacity. Law Commission of Ontario.

Always defer to the person in front of you. Frameworks describe patterns; people are individuals.

Ask the person who they want to help them understand the plan and communicate their preferences — and make space for those people to be present.

Notice when the person is communicating a preference through behavior, not just words, and document it as evidence of their preferences.

Support the person to practice and develop their decision-making over time. Decision-making is a skill, and it develops through supported practice.

Document instances where a person's stated preferences were honored and the outcome — to build an evidence base for SDM fidelity in DSD services.

Offer choices before acting on behalf of the person.

Document the decision-making support the person currently has and identify gaps.

Include SDM goals in person-centered plans: "What decision-making skills and supports does this person want to develop?"

For policy regulatory analysts, use Supported Decision-Making Walk-Through to define the decision, compare evidence and impacts, document limits, and name the owner; trace each recommendation to current authority, preserve exceptions, and document the decision record. Start by ask the person who they want to help them understand the plan and communicate their preferences — and make space for those people to be present.

For facilitators learning leads, use Supported Decision-Making Walk-Through to connect the guidance to the person's goals, program rules, access needs, and follow-up; build the guidance into preparation, practice, debrief, access checks, and follow-up. Start by notice when the person is communicating a preference through behavior, not just words, and document it as evidence of their preferences.

Do not replace official legal, policy, clinical, supervisory, program, or Tribal authority.

Do not infer an individual's identity, preferences, needs, or experience from group-level information.

State uncertainty, use current authoritative sources, and escalate when the decision exceeds the user's role.

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