

# PFA Tips

## Supported Decision-Making

People who exercise greater self-determination are more likely to experience better life outcomes including being more likely to live independently, work in the community at higher paying jobs and make greater advances in employment, have greater financial independence and community integration; and be more likely to identify situations where they could be abused and less likely to suffer abuse.<sup>1</sup> So how can we promote self-determination for people with disabilities?

Supported decision-making (SDM) is one alternative to guardianship that has gained traction and use across the country, since Texas became the first state to recognize it in 2015. SDM is a tool to increase self-determination that recognizes that just like people without disabilities, people with disabilities, may rely on the support of others they know and trust to help them make and communicate their decisions.

### Use in Maryland

The majority of states have passed laws recognizing SDM and outlining how to create SDM agreements. In Maryland, SDM has been in effect since October 2022 and can be used informally (without an agreement) or formally (with an agreement). There are some positives and negatives to each of these options. If you use an agreement, there are some rules about what the agreement needs to contain and who may need to receive a copy. The way a person communicates is not grounds for determining that they cannot make an SDM agreement. There are some positives and negatives to each of these options.

### Use it how it works for you

Under Maryland's supported decision-making law, the person with a disability gets to pick their supporter, the area the supporter helps with, and the type of the support they receive. SDM can be used to help people make decisions in any area of their lives—including medical, financial, and personal. Support can look different for each person. Some people may want advice while

others may want the supporter to help them gather information and take notes. It is all up to the person.

### Person with a disability is in the driver's seat

SDM is all about recognizing that a person with a disability can make their own decisions, they just may need support to do so. The supporter's role is not to influence them or to make the decision for them, but rather to provide them with information and insight so that they can make the decision they feel is right for them.

### SDM can be used alongside other alternatives to guardianship

Supported decision-making can be used alongside other alternatives like powers of attorney and advance medical directives. For example, just because a person has a power of attorney for financial decisions, doesn't necessarily mean that they can't make financial decisions independently. If they can still make their financial decision independently, they may name their agent under the power of attorney as a supporter to help them make and communicate their financial decisions to others.

### Try it out first before going to more restrictive options

Guardianship is always a tool in the toolbox, but it is a restrictive tool that results in court involvement (the court is the ultimate guardian). Try out SDM first to see if it can work. If it doesn't work, you can always go to more restrictive options.



### Use it within a guardianship

Even if a person needs a guardian, try to use supported decision-making informally, where possible, to promote their self-determination within a guardianship. The National Guardianship Association's standards of practice say that a guardian should encourage the person to participate, to the maximum extent of the person's abilities, in all decisions and to develop or regain the ability to make some decisions for themselves. That can look a lot like supported decision-making. Under Maryland's SDM law, a person subject to guardianship can use SDM informally and can also enter into an SDM agreement where the agreement doesn't impact the guardian's authority.

### Document communication

People with disabilities communicate in different ways—it doesn't mean they can't or are unable to communicate. Some people communicate using gestures, augmentative and alternative communication devices, including speech generating devices, a letterboard, or eye gaze. Others may easily

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get overwhelmed in certain environments and are not able to communicate clearly. A good supporter documents how the person communicates so that professionals can understand them.

### Access to accommodations

A good supporter helps to ensure that the person they are supporting has the accommodations that they need to make their own decisions—if that is a quiet environment, extra time, visual supports, plain materials, or other accommodations. The supporter should make sure the environment is conducive to the person being able to make decisions.

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### Additional Resources

Maryland SDM bill text (don't be afraid to attach this to an agreement)  
<https://mgaleg.maryland.gov/2022RS/bills/sb/sb0559t.pdf>

Disability Rights Maryland (includes model forms and guiding principles)  
<https://disabilityrightsmd.org/resources/>

Maryland DD Council Fact sheet: Did you know a new supported decision-making bill just passed in Maryland? | Maryland Developmental Disabilities Council  
<https://www.md-council.org/did-you-know-a-new-supported-decision-making-bill-just-passed-in-maryland/>

Maryland Judiciary Alternatives to Guardianship Videos: Alternatives to Guardianship Part 8: Supported Decision-Making | Maryland Courts  
<https://www.mdcourts.gov/video/courthelp/supported-decision-making>

Stop, Look, and Listen Tool: SDM Stop Look and Listen  
[scsupporteddecisionmaking.org](http://scsupporteddecisionmaking.org)

The Arc of NOVA 100 Ways to Use SDM  
<https://thearcofnova.org/wp-content/uploads/sites/6/2019/11/100-Ways-to-Use-SDM-10.29.19.pdf>

National Resource Center for Supported Decision-Making  
<http://supporteddecisionmaking.org/>

American Civil Liberties Union Disability Rights Program  
<https://www.aclu.org/other/supported-decision-making-resource-library?redirect=supported-decision-making-resource-library>

Center for Public Representation (CPR)  
<https://supporteddecisions.org/resources-on-sdm/>

<sup>[1]</sup> Peter Blank and Jonathan Martinis, “The Right to Make Choices”: National Resource Center for Supported Decision-Making, Inclusion 3:1 (2015), [http://supporteddecisionmaking.org/sites/default/files/inclusion\\_blank\\_maritinis\\_2015.pdf](http://supporteddecisionmaking.org/sites/default/files/inclusion_blank_maritinis_2015.pdf)