

## SUPPORTED DECISION-MAKING AGREEMENTS

Most people with disabilities can manage their own affairs with assistance and guidance from a person whom they trust and do not need a guardian. There are many alternatives to guardianship that give people with disabilities support to make decisions without taking away their rights. During the 84th Texas Legislative Session in 2015, legislators passed new laws that make Texas the first state to have laws recognizing supported decision-making agreements as an alternative to guardianship.

### What is Supported Decision-Making?

Supported decision-making allows individuals to make their own decisions and stay in charge of their lives, while receiving the help and assistance they need to do so. All people need and use support to make important life decisions. Even if a person with a disability needs extra help to make significant life decisions, their right to make their own choices should not be taken away. Using a supported decision-making agreement, a person with a disability chooses someone they trust to serve as their supporter.

Under a supported decision-making agreement, the supporter **CAN** help a person with a disability:

- Understand the options, responsibilities, and consequences of their decisions.
- Obtain and understand information relevant to their decisions.
- Communicate their decisions to the appropriate people.

Under a supported decision-making agreement, the **supporter CANNOT** make a decision for a person with a disability.

### Who Can Enter Into the Agreement?

A supported decision-making agreement may be entered into by an adult with a disability, defined as “a physical or mental impairment that substantially limits one or more major life activities.” The adult with a disability must voluntarily agree to the supported decision-making agreement and cannot be pressured into entering a supported decision-making agreement.

The law does not establish a specific level of capacity required for an individual to enter into a supported decision-making agreement. The individual should have the ability to understand that he or she needs assistance in making particular decisions, to choose a trusted friend or trusted family to be his or her supporter and be able to make decisions with the help of the supporter.

### Who Can Be the Supporter?

Any adult may be a supporter. Usually it is a family member or friend. The adult with a disability must choose who will serve as his or her supporter. The individual should pick someone they trust. A supported decision-making agreement is based on trust. An adult with a disability cannot be told whom to select as his or her supporter.

### **What does the Agreement do?**

The adult with a disability may allow his or her supporter to help gather information needed for a life decision, support the decision-making process by helping the adult evaluate and understand the options and consequences, and communicate that decision to other parties. The agreement may be established for one specific decision or for many decisions. The agreement may be customized to fit the situation as long as it is substantially similar to the statutory form.

### **What Authority Does The Supporter Have?**

The supporter has no authority to make the decisions for the adult with a disability. The supporter is only allowed to assist the individual with whatever is specified in the agreement. The supporter helps the individual gather information and understand that information in order to make an informed decision. The supporter can also assist the person with a disability in communicating the decision to the necessary third parties. The supporter merely assists the individual—the individual with a disability is “the decider.”

### **What Rights Are Maintained By The Adult With a Disability?**

The adult maintains the right to make the decisions, including where to live, with whom to live, where to work, and what supports and services they want. The individual can reject the advice of the supporter or make life decisions without the assistance of the supporter..

### **How Does It Differ From a Power of Attorney?**

A power of attorney grants another person the authority to make decisions and handle matters without input from the individual. A supported decision-making agreement does not give the supporter the power to make decisions. The person with a disability retains right to make decisions for himself or herself.

### **Can Supported Decision-Making Be Used With Guardianship And Other Alternatives?**

A Supported decision-making agreement could be used in conjunction with other alternatives to guardianship such as powers of attorney and representative payee. The use of other alternatives to guardianship with a supported decision-making agreement should be consistent with the goal of promoting self-determination of the person with a disability and avoiding a full guardianship.

**For more information or assistance in getting a Supported Decision-Making Agreement** contact Disability Rights Texas at 1-800-252-9108 or go to [intake.DRTx.org](http://intake.DRTx.org) to submit a request online.

*This handout is available in Braille and/or on audio tape upon request.*

*Disability Rights Texas strives to update its materials on an annual basis, and this handout is based upon the law at the time it was written. The law changes frequently and is subject to various interpretations by different courts. Future changes in the law may make some information in this handout inaccurate. This handout is not intended to and does not replace an attorney's advice or assistance based on your particular situation.*