

ACCOMMODATIONS IN DECISION-MAKING

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DECISION-MAKING

- o For a long time, decision-making has been thought of as a linear process that relies on two basic flaws:
 - There is a right and a wrong answer to every decision.
 - You can either make the right decision or you can't.
- o Decision-making is a skill that can be taught, learned, and practiced like any other skill.

DECISION-MAKING

- o Decision-making can be accommodated like any other skill.
- o If you are able to participate in any way in the decision-making process, there is a way to accommodate you.

THE VENDING MACHINE PROBLEM

- o Imagine you're standing at a vending machine full of snack food. You're really hungry and you know you have some change in your pocket, but you don't know how much money you have. How do you decide what to do?



POTENTIAL OPTIONS

1. Start putting money in the machine and press buttons until something comes out.
2. Give someone your money and hope they will buy something for you.
3. Any other ideas?

OPTION #1

- o Start putting money in the machine and press buttons until something comes out.
 - What are the chances that you're going to get what you want?
 - Are there any potential downsides?

OPTION #2

- o Give someone your money and hope they will buy something for you.
 - This is the basic premise of guardianship.

WHAT IS GUARDIANSHIP?

- o Guardianship is a formal judicial process that gives someone's decision-making authority to someone else. It begins when someone petitions for guardianship over someone else. After a hearing, the judge will issue an order establishing that guardianship is not needed, a full guardianship is needed, or a limited guardianship is needed.

TYPES OF GUARDIANSHIP

- o Full Guardianship:
 - Generally, a full guardian has a relationship with his ward as a parent does to a minor child.
 - Characterized as "civil death" because the person is stripped of legal capacity and deprived of many constitutional fundamental rights
 - Ex: Freedom of association, right to marry, etc.

TYPES OF GUARDIANSHIP

o Limited Guardianship:

- The guardianship order specifies only certain legal powers and duties of a guardian.
- A person under limited guardianship retains all legal and civil rights except those suspended by the order.
 - Ex: Medical guardianship, financial guardianship, residential guardianship, etc.

TYPES OF GUARDIANSHIP

o Private Guardian

- Any private person (friend/family member) who is appointed as a guardian.

o Public Guardian

- When the State is appointed as a guardian.
- The State generally assigns someone (usually a case manager) to be the guardianship representative.

WHEN DOES GUARDIANSHIP HAPPEN?

- o For someone with a developmental disability
guardianship is typically considered:
 - At age 18
 - After a significant event
- ★ Why do you think this is?

STANDARDS OF GUARDIANSHIP

- o The judge will determine whether you are an “incapacitated person”
 - Someone with a disability
 - Lacks sufficient understanding...to make or communicate responsible decisions concerning his person.
- o The judge will also determine whether the guardianship is necessary or desirable as a means of providing continuing care and supervision of the person.

STANDARDS OF GUARDIANSHIP

- o “The court shall exercise the authority...as to encourage the development of maximum self reliance and independence of the incapacitated person and make appointive and other orders only to the extent necessitated by the incapacitated person’s actual mental and adaptive limitations or other conditions warranting the procedure.”

AFTER AN ORDER IS MADE

- o Most guardianship orders are available online:
 - www.maineprobate.net

GUARDIANSHIP AND SERVICES

- o Guardians cannot delegate their authority to services paid for through MaineCare.
 - Rights of Recipients of Mental Health Services
 - Rights of Individuals with Intellectual Disabilities or Autism

OPTION #3

- o Any other ideas?
 - Identifying the decision-making process and using supports to assist someone in the places they have trouble is called **Supported Decision-Making**.
 - If you've thought of anything other than Options 1 or 2, you've picked Supported Decision-Making.

SUPPORTED DECISION-MAKING

- o In one way or another, we all use Supported Decision-Making on a daily basis.
- o None of us make decisions completely on our own.
 - Consulting a mechanic on a car repair
 - Talking to friends about picking a school
 - Talking to family about holiday plans

SUPPORTED DECISION-MAKING

- o Some people need more support than others.
- o If you can remember that decision-making is a skill, like any other skill (cooking, cleaning, ADLs), it's not difficult to start brainstorming supports.

DECISION-MAKING MODELS

- o Everyone's decision-making process is going to look different and using Supported Decision-Making is individualized to each person.
- ★ What are some support tools?

POWER OF ATTORNEY

- o Power of attorneys can be executed for any type of decision.
 - A Power of Attorney is a contract granting co-existing decision-making power to someone else.
 - Notarized and signed by both parties.
 - Can be revoked at any time.

OTHER MANAGEMENT STRATEGIES

- o Financial and medical:
 - Advance Health Care Directive
 - Bill Payment Service
 - Financial Power of Attorney
 - Medical Power of Attorney
 - Representative Payee
 - Special Needs Trust

SDM AND TRANSITION

- o Schools are required to notify parents when their child has reached the age of majority. This often sparks parents to petition for guardianship of their child to remain a part of the IEP process.
- o If you are already engaged in a supported decision-making relationship, you do not need guardianship to continue assisting your child in decision-making.

SDM AND ACCOMMODATIONS

- o The *Americans with Disabilities Act* grants individuals the right to request a reasonable accommodation:
 - “No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”

SDM AND ABUSE

- o Self-determination is linked with a decrease in abuse and an increase in subjective well-being.
- ★ Why do you think this is?

SUPPORTMYDECISION.ORG

o Need help with developing a Supported Decision-Making plan?

→ Go to [SupportMyDecision.org](https://supportmydecision.org)!

→ Or, call me!

Questions?