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# Supported Decision Making:

The passing of Senate Bill 134 and Pursuant to 186-C:3c

## NHDOE FACT SHEET

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Senate Bill 134, effective January 1, 2022, recognizes Supported Decision Making as an alternative to guardianship. The purpose of RSA 464-D in Senate Bill 134 is to establish and recognize a less restrictive alternative to guardianship for adults with disabilities. It fulfills this purpose by authorizing a legal option for adults with disabilities who seek assistance in making life decisions but choose to retain all of their legal rights. Alternatives to guardianship include, but are not limited to, services such as visiting nurses, homemakers, home health aides, adult day care and multipurpose senior citizen centers; powers of attorney, supported decision-making agreements representative and protective payees; and board and care residential care facilities. The Bureau is presenting this NH DOE Fact Sheet as a guide to assist IEP teams with their adherence to the requirements of 186-C:3c, with respect to supported decision making.

With the passing of Senate Bill 134 and pursuant to 186-C:3c, **if adult guardianship is being discussed by the IEP team** with a student or the student's family, the team shall inform the student and family of the availability of supported decision making, in accordance with RSA 464-D as an alternative to guardianship. This shall be done promptly when guardianship is first discussed. The IEP team shall make available resources to assist in establishing a supported decision-making agreement. If a supported decision-making agreement is executed, the IEP team shall abide by decisions made by the student pursuant to the supported decision-making agreement.

Decision making processes have historically been grounded in laws that allow others to be the ones making the decisions for the individual with disabilities. Traditional models include guardianship and powers of attorney. While powers of attorney are less restrictive than guardianship, both options name a substitute decision maker, someone who holds the control and the power over what happens within the boundaries of decision making as defined by a document either signed in advance while someone has capacity or defined by a court order through a guardianship proceeding. The supported decision making model, however, keeps the control with the individual themselves and helps the individual with disabilities build a framework or network to assist in making and communicating important health, financial, or education decisions.

Both guardianship and supported decision making are options that people with disabilities may consider as they enter into adulthood, but these options have distinct differences. Guardianship is the legal process of appointing a substitute decision-maker and allows the court to make the ultimate decision about an individual's rights and future. Under full guardianship, an individual will lose the right to vote, marry, make financial and medical decisions, and choose where and how they want to live, unless specific exemptions are outlined. A less restrictive alternative to guardianship, supported decision making, empowers the person with a disability to make decisions about their own life with the aid of one or more trusted supporters. It preserves the self-determination of adults with disabilities and maintains their autonomy by providing accommodations and supports to enable them to make life decisions.

Supported decision making is a life planning tool and describes the process by which most individuals make decisions - by consulting with friends, family, social services, community organizations, and and/or other sources of support to weigh the pros and cons of a decision, review potential outcomes, and finally make a choice. It puts the individual with a disability at the center of conversation, allowing them the freedom to make mistakes but still recover and learn. The ability to make sound, reasoned decisions is a skill acquired over time. Providing adult students with disabilities the opportunity to practice making decisions in a supported environment is a significant benefit as they prepare for life outside of high school.

Supported decision making is flexible in how it is applied from individual to individual and even how it is applied to the same individual over time. The person with disabilities chooses people they trust to help them understand, make, and communicate those decisions. These trusted people are called “supporters” and may include trusted friends, relatives, neighbors, co-workers, providers, volunteers, or community members. Supported decision making requires a supported decision making agreement.

Through a supported decision making agreement, the student with disabilities legally designates which supporters will help them make which decisions. Types of decisions that could be considered include where and with whom they want to live, what services, supports, or medical care they want to receive, and where they want to work. There may be multiple supporters identified to help with the various decisions outlined in the agreement. Since each supported decision making agreement is designed to best support the individual with disabilities, each agreement will look different. A supported decision making agreement will only exist if the person with the disability chooses it and is comfortable with their designated supporters.

### **Supported Decision Making Resources:**

- NH Department of Education website: [Special Education | Department of Education \(nh.gov\)](#)
- Supported Decision Making Fact Sheet
- Sample Supported Decision Making Agreement

Resources to assist students and families with guardianship, supported decision making or other options:

- NH Family Voices, [Home - New Hampshire Family Voices \(nhfv.org\)](#)
- Parent Information Center, [Parent Information Center of NH – Supporting families of children with disabilities and special health care needs and the professionals that support them \(picnh.org\)](#)

Additional resources:

- Disabilities Rights Center – NH, [New Hampshire's Leading Disability Advocates for 40 Years - DRC NH](#)
- The National Resource Center for Supported Decision Making, [Supported Decision-Making News | Supported Decision Making](#)