

Least Restrictive Approaches to Supporting Individuals as Decision Makers

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Introduce ourselves

- Montana Deaf-Blind Project and Children's Special Health Services
- Personal Story-Family Perspective



Isaac Baldry



Giving a presentation; you can tell by the tie.

Using the app on my phone to talk with Patrick.

Quote

- Presume Competence isn't just a catchy hashtag. It's a Philosophy. It's a Way of Life and Faith and Love. It's Believing in our Kids and in so doing Enabling them to Believe in Themselves.
 - Intelligent Lives, diary of a mom

Transition Recommendations (1/2)

1. Training and Technical Assistance
 - Provide information, training, and technical assistance that **raises expectations for a meaningful adult life...**
2. Work Experiences
 - ...**individualized** to students' **strengths** and **support needs...**
3. Advocate for Community Activities and Living
 - Advocate...to have community activities and living...**meaningful participation** and **membership in their communities**

Transition Recommendations (2/2)

4. School and Adult Agency Collaboration

- ...seamless transition...to **adult life**

5. Qualified Personnel

- ...know how to **support person-centered planning**

Educate Families

- Educate and inform families...transitions process, adult laws and services... **rights**...long-term **supports**.

Rights

- “Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently [and] to exert control and choice over their own lives...” (42 U.S. Code § 15001)
- National Council on Disability Reports:
 - [Beyond Guardianship: Toward Alternatives That Promote Greater Self-Determination](#)
 - [Turning Rights Into Reality: How Guardianship and Alternatives Impact the Autonomy of People with Intellectual and Developmental Disabilities](#)

Guardianship

- Different in each state; Conservatorship
- Emotional period of time, emotional issue
 - Hope/Dreams
 - Move to an intentional path based in thoughtful consideration

Capacity

- FLUID



Less Restrictive Options/Alternatives to Guardianship

- Continuum of solutions based upon what is needed by the individual to be supported.
- Is there is a less restrictive form of intervention available which is consistent with the person's welfare and safety?

Less Restrictive Options

(1/2)

Least Restrictive

- Supported Decision Making
- Advocacy Forms
- Online Bill Payment Service
- Individual retains full independence and full decision-making power, YET is able to access support as needed.

Less Restrictive

- Power of Attorney
- Representative Payee
- Individual retains some, but not all, control over decisions in their life. A representative is designated to make decisions “FOR” an individual in specific areas of need.

Less Restrictive Options

(2/2)

More Restrictive

- Limited or Temporary Guardianship
- A Guardian is limited in which areas they act as the decision maker for the individual, or serves for a specific amount of time based upon what is needed by the individual . The order is tailored by the court.

Most Restrictive

- A Guardian has full decision-making control over all areas of an individual's life. Requires a court order.

Why?

- “Alternatives to guardianship, including supported decision-making, should always be identified and considered whenever possible prior to the commencement of guardianship proceedings” (National Guardianship Association)
- “Research has consistently shown that people with disabilities who exercise greater self-determination have improved employment and quality of life, are better problem solvers, and are better able to resist and avoid abuse” (Jameson et al., 2015)
- An individual with a disability may be part of the first generation to outlive their parents/potential guardians.

Decisions/Choices

- Little and Big; throughout the day; of varying importance
- Take In Information in the best way
- Make a Decision
- Communicate the decision
- How do you make decisions?

When:

- Start early with a conversation about what supports will be needed and how to provide them in the least restrictive way possible.
- Allows time for you to develop the tools, and most importantly allows time for the individual being supported to understand the tools and how they will be used.
- Time may be needed for the individual to develop a signature and receive training in what to sign, when to sign, and how to respond to pressure about signing a document.
- For youth, the tools will not go into effect until they become an adult at age 18 and can legally sign the document(s).

Turning 18!

- Freedom, I am finally 18!
- I am my own boss.
- Adults don't have rules.



Get to know the person

- Skills, strengths; Concerns; Fears
- Growth- opportunity to develop skills, growth clause-Jonathan Martinis
- [PRACTICAL Tool](#), American Bar Association
- [When Do I Want Support](#), ACLU
- Areas to consider: Education, Medical, Financial

Supported Decision-Making (1/2)

- Supported Decision-Making is a less restrictive option. It is a process rooted in the belief that all people have the right to make choices and decisions about their own lives.
- As a tool, it is not specific to one form or one recognized process; it is key that the individual directly impacted by the choice or decision is enabled based upon their needs, wants and preferences.
- In Supported Decision-Making, individuals use people of their choosing, such as friends, a family member or professional, to assist them in understanding information, the impact of choices, and what options need to be considered in making a decision.

Supported Decision-Making (2/2)

- Everyone needs support- determine what kind when
- Voluntary
- Customized
- Team, one person, go-to people, topic specific
- Understand information provided, help if needed in communicating choices
- Goal: individual retains control of their life and choices to the maximum extent.
- Develop a plan and share with need-to-know people

Isaac's way

What do I have to decide?
What am I worried about?



Do I need more information?
Do I need to look something up?
Do I need to talk to someone with specific knowledge?



Did I find a barrier I had not planned on?
Did I consider all possibilities?



What is my plan?
Do I need anyone to help with pieces of my plan?

- Did I tell them what I need?

Education

- Nothing added or done
 - Educational Advocacy Form
 - Educational Power of Attorney
 - Limited Guardianship-Education
- Post-Secondary Education

CONSENT TO AUTHORIZE ADVOCACY AND RELEASE OF INFORMATION

I, (Name), hereby authorize (School District) to release and exchange information with my advocate, (Advocate Name), which pertains to my school program and placement. I am also requesting that my advocate be invited to any and all meetings about me, and I do not want any decisions made without his/her input. I do not wish to discuss issues or concerns about my school day or program without my advocate present. If the school or district has any documents I need to sign, my advocate must sign first with me present, before I will sign. This authorization, unless otherwise revoked by me, will remain in effect for the durations of the time I receive special education services and until my twenty-fifth birthday. My advocate has read through this paper with me prior to my signing to make sure I understood and want this agreement.

Signature

Date

Medical

- Supported Decision-Making; Assistive Technology; Designated Caregiver
 - HIPAA Release with Supported Decision-Making- “and for decision-making purposes”
 - Medical Advocacy Form
 - Healthcare Power of Attorney
 - Advanced Directives; Montana Mental Health Advanced Directives
 - Limited Guardianship

DESIGNATION FOR PATIENT ADVOCATE FOR CARE, CUSTODY, AND MEDICAL TREATMENT DECISIONS

I am (Name) and I live at (Address) in (City), (State). I want (Advocate Name), my advocate, to help me if I am sick and if I need to go to the doctor.

My advocate read this paper to me before I signed the paper and I understood what they told me about this paper.

If I am sick, my advocate should take me to the doctor. I would like the doctor to talk to him/her about what is the matter with me.

I would like the doctor to ask my advocate what we have decided the doctor should do. I would like the doctor to do what the advocate tells the doctor to do in regards to my treatment.

If I am very sick, I might need to go to a hospital. My advocate will help me decide if I need to go to the hospital. I would like all the people at the hospital to speak with my advocate and myself about what the people at the hospital should do for me. My advocate will say “yes” or “no” and that is what the people at the hospital are to do.

I understand that I want my advocate to help decide what care I need, and I want people to listen to him/her about my care.

Financial

(1/2)

- Financial literacy
- Opportunity to earn money; choice
- Minimal support: SDM, cards
 - Additional support: joint signature
 - Representative Payee
 - Financial Power of Attorney
 - Trusts
 - Conservatorship

- ABLE (Achieving a Better Life Experience) Accounts
 - *Agent Authorization/Power of Attorney
 - [National ABLE Resource Center](#)

National & State Level

- [Uniform Guardianship, Conservatorship, and other Protective Arrangements Act](#)
- [National Guardianship Association](#)
- [National Center for Supported Decision Making](#)
 - [Supported Decision-Making Model Agreements](#)
 - Expectations of Guardians and Recognition of tools varies within states

Additional Components:

- Notarizing, Sharing of Forms
- Respect
- End-of-Life Decisions

- Undoing Guardianship- “Restoration of Rights”

Resources

- [The Right to Make Choices: International Laws and Decision-Making by People with Disabilities, Easy Read Edition, Part 2: Supported Decision-Making](#)
- [Introduction and Guide to Supported Decision-Making YouTube Video Series](#)
- [Alternatives to Guardianship Toolkit ; Less Restrictive Factsheet](#)
- [The ARC, Center For Future Planning, Build Your Plan](#)



MONTANA TRANSITION RESOURCES
ruralinstitute.umt.edu/transition

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