

SUPPORTED DECISION MAKING



Why is it so important?

Michigan Developmental Disabilities Council

Overview

There is no question asked more often by parents of students with Intellectual and Developmental Disabilities (I/DD) than, “What will happen to my son or daughter when I am gone?” As a student approaches adulthood, families often question whether or not to pursue guardianship. This decision is made more difficult by lack of information regarding what guardianship can and can’t do. The information that follows, offers alternatives for families that can allow them to remain respectfully involved in their young adult’s life.

Reality vs. Myth

First and foremost, it is essential that parents know that the best protection for their child and their child’s future is a caring, involved family and a network of community connections. With these two things in place, aided by appropriate estate planning, parents can truly achieve some peace of mind as both they and their child with a disability age.

Myths:

- ✓ Guardianship provides protection for the individual
- ✓ Guardianship can prevent bad things from happening
- ✓ Guardianship, can insure good things will happen
- ✓ Guardianship is a gift that protects a person

Reality:

- ✓ In reality, when people have guardians, they can still be abused by friends or strangers
- ✓ In reality, just like anyone else, they can be hit by a car, choose the wrong foods, destination, or friends
- ✓ In reality, guardianship doesn’t guarantee needed services or supports, individuals qualify, or they don’t
- ✓ In reality, a guardianship document is not the only way to “fix” things, or seek recourse
- ✓ In reality, “Giving someone a guardian” means “TAKING AWAY” some, or all of their RIGHTS

One Tool in decision making

The **PRACTICAL** Tool aims to help individuals, families and lawyers identify and implement decision-making options for persons with disabilities that are less restrictive than guardianship.

Presume: Don’t automatically assume that guardianship is needed, presume competence

Reason: Clearly identify the reasons for concern

Ask: Ask if a triggering concern may be caused by a temporary or reversible condition

Community: Determine if concerns can be addressed by connecting the person to family or community resources

Team: Ask the person if he or she had already developed a team for decision making

Identify: Identify areas of strength and limitations in decision making

Challenges: Screen for and address any potential challenges presented by supporters

Appoint: Appoint a legal support or surrogate consistent with the person’s beliefs and values

Limit: Limit any guardianship petition or order to only what is necessary

www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/practical_tool.html

Alternatives

Surrogate parent: Students who are a ward of the state can request a surrogate parent from the school district.

Conservatorship: A judge can appoint a person called a conservator to handle money, or property

Power of Attorney: A legal document that allows a person to give another person, called an Agent, permission to act on their behalf in one or more areas

Representative Payee: A payee is a person who can manage an individual’s government benefits like SSI or SSDI payments.