

Understanding Supported Decision-Making in Delaware: A Guide for Community Members

This resource guide is tailored to professionals in diverse sectors, including banks, medical institutions, offices, and agencies. It offers information to enhance their understanding of supported decision-making agreements and their application within their workplaces or businesses. This resource does not constitute legal advice.

Key terms to know

A **person with a disability** is an individual who has physical, cognitive, sensory, or developmental differences that may impact their daily life and activities.

Supported decision-making (SDM) is a legal tool that allows people with disabilities to get the help they may need to make choices about their personal lives, healthcare, and finances.

Supporter(s) are a person or people chosen by a person with a disability and included in their SDM agreement to help them make and communicate life decisions.

What is a supported decision-making agreement?

A supported decision-making agreement is a written legal document that enables people with disabilities to maintain their autonomy by identifying supporters who can assist them or provide guidance when they are making a decision.

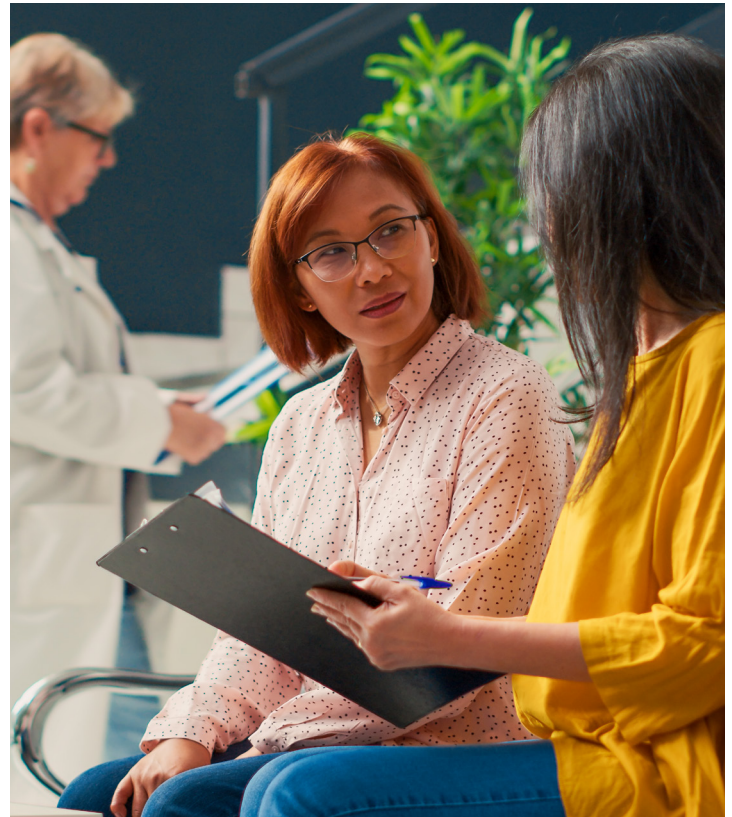
It must include:

- At least one supporter designated by a person with a disability.
- The types of decisions for which the supporter is allowed to help (e.g., financial, healthcare, education, or social services).
- The types of decisions for which the supporter is not allowed to help, if any.
- Signatures of the person with a disability, their supporter(s), and two witnesses.

The agreement does not need to be notarized or signed in the presence of a judge or a lawyer. Read the statute for a complete review of required elements and prohibitions.

Who can be a supporter?

A family member or friend of a person with a disability can be a supporter. Supporters can be paid staff if they are specifically providing SDM services. Other paid staff working with a person with a disability (for example, day program staff or nursing staff) cannot be a supporter. It is permissible to ask a supporter to provide identification.



Additional resource guides and a full list of references at <https://www.delawareautismnetwork.org/>.

Curtin, E., Mallory, S., Fletcher, A., & DNEA CDS Team. (2024). *DNEA resource guide: Understanding supported decision-making in Delaware: A guide for community members*. Delaware Network for Excellence in Autism.

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What can supporters do for people with disabilities?

Supporters have “legal status to be with the adult and participate in discussions with others when the adult is making decisions or attempting to obtain information” (16 Del. C. § 9402A (2016)).

This may look like:

- Collecting information relevant to life decisions
- Making appointments
- Attending appointments
- Keeping track of records and important documents
- Explaining information and options
- Communicating decisions
- Advocating

Supporters cannot make decisions on behalf of the person with a disability.

What information can a supporter access?

Supporters can access personal information, such as health information, financial information, or educational records, if the person with a disability signs a release. For example, this may be a HIPAA release from a doctor or a FERPA release from an educational setting.

How can my organization best work with a person with a disability who has a supported decision-making agreement?

- If you have questions about a person’s SDM agreement, ask to see a copy.
- Ask the person with a disability if they want their supporter to have access to personal information. If they approve, provide a release of information form so they can designate their supporter as someone who can access their information. If your organization does not have its own release of information form, the person with a disability and their supporter may sign a general release form.
- If a person with a disability believes their SDM agreement is not being honored, provide them with your organization’s grievance policy.
- Include a person’s SDM agreement in their records.

Who can I contact if I have questions about supported decision-making in Delaware?

- The Disabilities Law Program at Community Legal Aid Society, Inc.:
 - New Castle: 302-575-0690
 - Kent: 302-674-8503
 - Sussex: 302-856-3742
- Delaware Health and Social Services: 1-800-372-2022
- Delaware Developmental Disabilities Council: 302-739-3333

Reference

Supported Decision-Making Act, 16 Del. C. § 94A (2016).

<https://delcode.delaware.gov/title16/c094a/index.html>

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