

Supported Decision Making

SDM Action Group-Brianna, Eyob, Meg, Michele and Nick

Supported Decision Making in NH began with a bill sponsored by Rep. Wendy Chase (a Leadership grad) which became effective on 1/1/2022.

The law is RSA 464-D.

"Supported decision-making" means a process of supporting and accommodating an adult with a ***disability*** to enable the adult to make life decisions, including, without limitation, decisions related to where the adult wants to live, the services, supports, and medical care the adult wants to receive, whom the adult wants to live with, education, and where the adult wants to work, without impeding the self-determination of the adult. RSA 464-D:4, IV

SDM is an alternative to guardianship. In guardianship, a person loses their legal right to make their own decisions.

In SDM, a person with disabilities keeps the right to make their own decisions with assistance from trusted people.

Importantly, the person retains their right to make their own decisions.

Any type of decision can be the subject of an SDM agreement.

A valid SDM agreement requires the designation of at least one supporter, the types of decisions for which the supporter is authorized to assist and the types of decisions for which the supporter is not authorized to assist.

464-D:9 Duties of Supporters:

A supporter is in a fiduciary relationship with the principal and is subject to the following requirements:

- I. To act loyally, without self-interest, and in good faith.
- II. To act within the authority granted in the agreement and by this chapter.
- III. To avoid conflicts of interest.
- IV. To disclose to the principal all facts known to the supporter relevant to making a decision.
- V. To act with the care, competence, and diligence ordinarily exercised by individuals in similar circumstances, with due regard either to the possession of, or lack of, special skills or expertise.
- VI. To provide sufficient information to a monitor for financial matters designated pursuant to RSA 464-D:13 to allow the monitor to fulfill his or her responsibilities pursuant to this chapter.

464-D:10 Authority of Supporters:
I. A supporter may only exercise the authority granted to the supporter in the agreement.

Some people are not allowed to be supporters!

1. An employer or paid support professional is not allowed to be a supporter unless they are an immediate family member.
2. A person who the principal has a restraining order against.
3. A person who has been convicted of [certain crimes defined in the statute] if the offense has not been annulled

See RSA 464-D:12 Persons Ineligible to be Supporters:

Who is required to inform individuals with disabilities about SDM?

An IEP team. If the IEP team is discussing guardianship, it must also discuss SDM.

Supported Decision-Making

TOOLKIT



Keeping **Individuals with Disabilities**
and **Aging Adults** in Charge of Their Lives

For more information:

<https://drcnh.org/issue-highlight/supported-decision-making-toolkit/>

<https://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XLIV-464-D.htm>

<https://picnh.org/supported-decision-making/>

https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/nhdoe-supported-decision-making-fact-sheet_0.pdf