

# Getting Started with Supported Decision-Making in Massachusetts

As you read, be aware that you can find definitions of the words **in bold** in the “Key Words to Know in Massachusetts” handout here: <https://supporteddecisions.org/key-words-to-know-in-ma/>.

## 1. Understanding SDM

Before you start using **Supported Decision-Making** (SDM), you should have a clear understanding of what it is and what it is not.

SDM is a way of making decisions that people, including people with disabilities, can use to make choices about their own lives with the help of people they pick and trust, who are called “**supporters**.”

SDM is different than **guardianship**. With guardianship, the **guardian** makes the decisions for you. If you have a guardian, you can and should tell your guardian what you would like. But if your guardian disagrees with you, your guardian usually still gets to make the decision for you, even if you disagree with it.

When you are using SDM and your supporter does not agree with your decision, you still are the decision-maker. Your supporter can tell you that they do not agree, but your supporter cannot make the decision for you. With SDM, you get advice and help from your supporters to understand your options, but you make your own decisions.

Another difference between SDM and guardianship is that you do not have to go to court or pay a lawyer to start using SDM. With SDM, you choose who you want as a supporter, and you decide what kind of help you want. With guardianship, a judge decides who the guardian will be and what power the guardian will have.

## 2. Identifying Supporters

If you decide to start using SDM, you should think about who you would like as a supporter. A supporter can be anyone in your life who will be able to help you with making decisions. Supporters can be your siblings, parents, other family members, friends, past and present caregivers, case managers, nurses, neighbors, and other people you know. A supporter should be someone:

- who you trust,
- who knows you well,
- who wants to help you make your own decisions,
- who you feel comfortable talking to about serious things like your health and finances
- who understands your preferences,
- who knows how to communicate with you in a way you can understand, and
- who will be available in the future to help you.

You can get help deciding who to choose as a supporter from trusted people in your life.

### 3. Working with Multiple Supporters

You can have as many supporters as you want. It does not matter how many supporters you pick or if you just pick one. What matters is that you pick a supporter or supporters who you trust to help you make decisions.

If you pick more than one supporter, you can choose whether you want your supporters to work together or separately. For example, some people pick one supporter to help them in one part of their life, like health care, and a different supporter to help them in a different part of their life, like relationships. Other people decide that they will have all their supporters help with all areas of decisions. And some people decide that there is one person who they would like to get advice from as a “first choice” on every decision. But, if that “first choice” supporter is not available, they go to a different person. You can talk together with your supporters about the best way to do things.

### 4. Talking to Your Supporters

Once you have picked your supporters, you should talk to them about SDM. Your supporters should understand what SDM is and how it works.

If you have more than one supporter, it is helpful to talk with them about the different roles they will play. Think about these questions:

- Will you have meetings with all of your supporters?
- Will you let all your supporters know about a big decision after you made it?
- Will your supporters talk to each other if you are not there?
- What will you do if your supporters disagree with each other?
- Can your supporters commit to working with you going forward?

### 5. Deciding Whether to Draft a Supported Decision-Making Agreement

Some people choose to write down how they want to use SDM. This kind of written document describing how the person wants to use SDM and who their supporters are is called a Supported Decision-Making Agreement. Other people choose to use SDM informally without writing anything down. In Massachusetts, SDM can be used with or without a written agreement, so you can pick the option that works best for you.

Having a written SDM Agreement can help explain to other people and organizations – like hospitals, banks, schools, service providers, and governmental agencies – that you are using SDM. But you are not required to use an SDM Agreement if you do not want to. If you have an SDM Agreement, you also are not required to show it to anyone unless you want to.

If you decide to create a written SDM Agreement, it can be personalized to you and your preferences. If you are a Massachusetts resident, you can find an example of an SDM Agreement form to use here: <https://supporteddecisions.org/getting-started-with-supported-decision-making/sdm-agreement-form/>. This form is just an example. As of January 1, 2025 –

unlike some other states – Massachusetts has not passed a law requiring a specific SDM Agreement form or rules to be used.

## 6. Making Your SDM Agreement Official

If you decide to create an SDM Agreement, you can choose to have someone called a notary observe you when you sign it. A notary is someone with a special license from the State who is a witness for people who are signing important documents. If your SDM Agreement is notarized, it makes it more official. This may help you if you choose to show your SDM Agreement to a doctor, a banker, or someone else in the community.

You may be able to find a notary for free or low cost at libraries, city halls, town halls, municipal offices, and law firms. When you go to get your SDM Agreement notarized, bring your identification.

## 7. SDM Companions: health care proxy, power of attorney, and shared educational decision-making

There are at least three other tools you can think about using alongside SDM: **health care proxy**, **power of attorney**, and – if you're in school – **shared educational decision-making**.

### Health Care Proxy

A **health care proxy** is a legal document that allows someone you choose to make health care decisions for you if something happens to you and you cannot make decisions for yourself. A health care proxy is only used temporarily. As soon as you are able to make decisions for yourself again, your doctor will ask you to do so. Health care proxies are for everyone — not just people with disabilities or people using SDM.

To create a health care proxy, you fill out a form where you write the name of who you pick as your health care proxy. For health care proxy forms, see:  
<https://www.honoringchoicesmass.com/multilingual-planning-documents/>.

Your health care proxy should be someone you trust completely and who knows you very well. Many people who use SDM decide to pick one of their supporters as the health care proxy. But, if there is someone who is not your supporter who you want to be your health care proxy, that is okay too. If you choose someone who is not a supporter to be your health care proxy, it is a good idea to let the rest of your supporters know.

You can create a health care proxy without going to court, and you can always cancel your health care proxy if you no longer want it.

### Power of Attorney

The law lets you choose someone called an “**agent**” to take care of your finances, business, or legal issues in certain circumstances or if you are unable to – this is called giving someone “**power of attorney**.” You may want to make a power of attorney if you have a bank account or

other financial resources or money that are not in a trust, and you want help managing them. The power of attorney document can say when you want a trusted person to have the power to make those decisions for you – either right away or under certain circumstances.

If you want to use SDM and also want to plan for the future, you may want to create a special kind of **durable power of attorney**. Your power of attorney could say which person or people you want to handle your financial, business, or legal matters for you, if something were to happen and you could no longer make decisions for yourself. Then, if there comes a time in the future when you cannot make decisions for yourself, the person you picked could handle those matters for you.

While you do not need to go to court to make or change a power of attorney, powers of attorney can be complicated, depending on your personal situation. We strongly recommend you talk to a lawyer if you are using SDM and think you need to give someone power of attorney.

### Shared Educational Decision-Making.

In Massachusetts, when you are in special education and turn 18 years old, you can choose to share your educational decision-making authority with one or more parents or other adults through a process called **Shared Educational Decision-Making**. This means you work with the adult(s) to make choices together about your Individualized Educational program (IEP) and educational services. Like SDM, if you and your shared decision-maker disagree about an educational decision, your choice is the one that wins.

The 2024 Massachusetts IEP form includes a section called “Decision-Making Options for Student” where your IEP team at school can check a box indicating that you want to use Shared Educational Decision-Making and write down who your shared decision-maker is. For the 2024 Massachusetts IEP form, see <https://www.doe.mass.edu/sped/ImproveIEP/iep-form/>.

## 8. Releases of Information

There are laws that prevent people like doctors or schools from sharing personal information about you without your permission. When you are using SDM, you may want your doctors or your school to share information with some or all of your supporters. You can give your supporters access to this kind of information by filling out a **Release of Information** form. What information you want your supporters to have will depend on what kind of help you are getting from a supporter. For example, you may want to give a supporter who is helping you make health care decisions access to your medical records, but not your bank statements. And that’s up to you!

### Health care release form

To give your supporters access to your health care information, you can fill out a release form under the Health Insurance Portability and Accountability Act (HIPAA). HIPAA is a federal law that prevents your health care providers from sharing your medical information. Ask your health care provider for the HIPAA Release of Information form that it uses.

## School records release form

If you are a student and you want your school to share information with one of your supporters, you can fill out a school records release form, sometimes called a Family Education and Privacy Act (FERPA) Release of Information Form. Ask your school for the FERPA release form it uses.

## 9. Educating Others About SDM

You should consider telling the important people in your life that you are using SDM. Who might need to know that you are using SDM? Some examples are your: school, bank, and health care providers, including your primary care doctor, dentist, mental health providers or any other specialists you see regularly. It is up to you to decide who you tell.

## 10. Changes to your SDM Agreement

If you start using an SDM Agreement and something is not working, you can always make changes. For example, you can add supporters, remove supporters, or change the way your supporters assist you. You are in charge of how you use SDM. If you do not like something about it you can change it.

If you have a written SDM Agreement and decide to make changes to it, consider creating a new version of the Agreement that includes these changes and discussing the changes with your supporters. If you make a change to your written Agreement, like crossing off a supporter, you may want to sign your name next to the change and write the date. That way everyone knows who made the change. Consider giving new copies of the updated Agreement to anyone to whom you gave your original SDM Agreement, so they know about the changes.

**DISCLAIMER** – This “Getting Started with Supported Decision-Making in Massachusetts” resource is for informational purposes only and does not constitute legal advice. If you have legal questions, you should speak to an attorney licensed to practice law in your State.