



FAQS ABOUT SUPPORTED DECISION-MAKING FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES (I/DD)

On September 30, 2022, Governor Newsom signed [Assembly Bill \(AB\) 1663](#) and it became effective January 1, 2023. AB 1663 reforms California's probate conservatorship system to help adults who have a developmental disability and need support to lead self-determined lives. The new provisions are aimed at providing adults with disabilities and elders with less restrictive alternatives to conservatorships and making it easier for a conservatee to end a conservatorship.

Q1. What happens when an individual with I/DD becomes an adult?

A1. Individuals with I/DD have the same rights as other adults when they turn 18. These include the right to:

- Decide where to live.
- Decide if and where to work.
- Make decisions about the services they receive from schools, colleges, and regional centers.
- Enter into contracts.
- Agree to medical treatment,
- Access their confidential records,
- Vote
- Get married.

Q2. If an adult with I/DD communicates a need for support in making decisions, how can they be supported?

A2. There are many ways to help adults with I/DD make decisions. These include supported decision-making, health care directives, representative payees, consent to release confidential information and authorized representatives.

Q3. What is supported decision-making (SDM)?

A3. SDM helps adults with I/DD make decisions about their lives. It provides support so individuals can make their own choices. SDM lets an individual choose another adult to help them make decisions. This can be a trusted family member, friends, or someone else. This person is called a "supporter". Information about different ways to support decision-making is here: <https://selfhelp.courts.ca.gov/options-help-someone-impairment-or-disability>

Q4. How can a supporter help a person with I/DD make decisions?

A4. The supporter does not make decisions for the individual. A supporter helps a person with I/DD think about and make their own decisions. There are lots of ways a supporter can

help:

- **Get information and help prepare for meetings.** For example, a supporter can explain the Individual Education Program (IEP) progress reports. A supporter can also help the adult with I/DD think about new goals, such as a goal to explore career options after high school.
- **Explain what is being said at a meeting.** For example, at an Individual Program Plan (IPP) meeting, a regional center may offer several ways to get independent living skills training. The supporter can break down the options, so they are easier to understand.
- **Communicate decisions to others.** For example, a supporter can help an adult with I/DD explain why they want to include an IPP goal about learning to manage their money.
- **Make sure choices are honored.** For example, a supporter can help set up meetings to make sure services are provided. A supporter can also help set up an IEP meeting to learn about how information for post-high school options is being provided.

Q5. What are a supporter's responsibilities?

A5. When supporting an adult with I/DD a supporter must:

1. Support and implement the individual's decisions and choices.
2. Respect their values, beliefs, and preferences.
3. Act honestly, diligently, and in good faith.
4. Provide support only in the areas they want help.
5. Keep information confidential.
6. Not make decisions or sign documents on their behalf. They may do this only when they have another legal document that gives them that authority.

A supporter can never provide support when they have a conflict of interest.

Q6: How does SDM work?

A6: Supported decision-making is flexible. The adult with I/DD chooses the areas where they want support and the kind of support that works best for them. There are two kinds of SDM: informal SDM or with a written SDM agreement.

Q7: How does informal SDM work?

A7: An adult with I/DD can ask a supporter to attend a meeting with them. This can include an IEP or IPP meeting. It can also include a meeting with a doctor or another health care provider, or a bank.

To use informal SDM, the person with I/DD says they want to have a supporter help them at the meeting. They can say this by speaking, using an alternative communication method such as a gesture, or technology device.

The supporter is allowed to join the meeting except in limited circumstances. A party to the meeting may exclude the supporter if they reasonably believe there is fraud, coercion, abuse, or other action that the party must report under abuse statutes.

Q8. What is a written SDM agreement?

A8. A written SDM agreement is a formal document between an adult with I/DD and one or more supporters. The agreement must be in plain language and include specific information. The agreement can also include images, video or be read aloud in addition to the written document. It must be signed by the individual with I/DD and each supporter. It must be

witnessed by a notary public or two disinterested adults. A written SDM agreement must be reviewed at least every two years. If the agreement is updated, it must be signed again.

Q9. What must be in a written SDM agreement?

A9. A written SDM agreement must include the following information:

1. A list of areas where the person with I/DD wants support.
2. A list of areas where the supporter agrees to help. There can be one or more supporters.
3. Provide information and copies of other decision-making documents such as a power of attorney or authorized representative form.
4. The supporter must state that they are qualified to provide support.
5. Information telling the adult with I/DD about their right to file a report if they think a supporter has victimized or abused them, More information about victimization and abuse is here: www.dds.ca.gov/wp-content/uploads/2020/12/Tip_Sheet_Abuse_Vend_UnderstandingAbuse_english.pdf

Q10. Can a written SDM agreement be terminated?

A10. Yes, the adult with I/DD or the supporter may end the agreement at any time. SDM ends when the adult with I/DD dies. It also ends when a supporter does not meet the legal requirements to be a supporter.

Q11. Who cannot be a supporter?

A11. An individual can't be a supporter if the adult with I/DD has made an allegation of abuse or neglect or obtained a protective order against the supporter.

An individual can't be a supporter if a court or administrative agency stops the supporter from having contact with the adult with I/DD or finds the supporter, abused, neglected, coerced, or mistreated the individual. An individual also can't be a supporter if they were removed as a conservator because they did not act in the individual's best interests.

Q12. How does SDM work with conservatorships?

A12: Before a judge appoints a conservator, the judge must decide if there are alternatives to conservatorship. SDM is one alternative the judge must consider. If the judge decides SDM is a good alternative, the judge won't appoint a conservator.

If the conservator's powers are limited, SDM can be used in to help the adult with I/DD make decisions in areas where they have decision-making authority. All limited conservators are required to support the individual's independence. They are also required to help the individual make their own decisions.

