

Supported Decision Making for Youth Transitioning to Adulthood

A person in New Hampshire over the age of 18 is legally an adult, and is presumed to be able to manage his or her own financial affairs, choose where to live, consent to medical treatment, vote, make contracts, marry, and exercise his or her own legal rights as an adult. This presumption does not change because a person has a disability. When a person is unable to do some or all of these, some form of supported decision making is needed. It is important that families start this conversation early and learn about the full range of options. While guardianship is the most widely used legal tool, there is a growing use of less restrictive options to support a young adult's ability to have control over his/her own life.

DECISION-MAKING — A Skill that Requires Practice and Experience¹

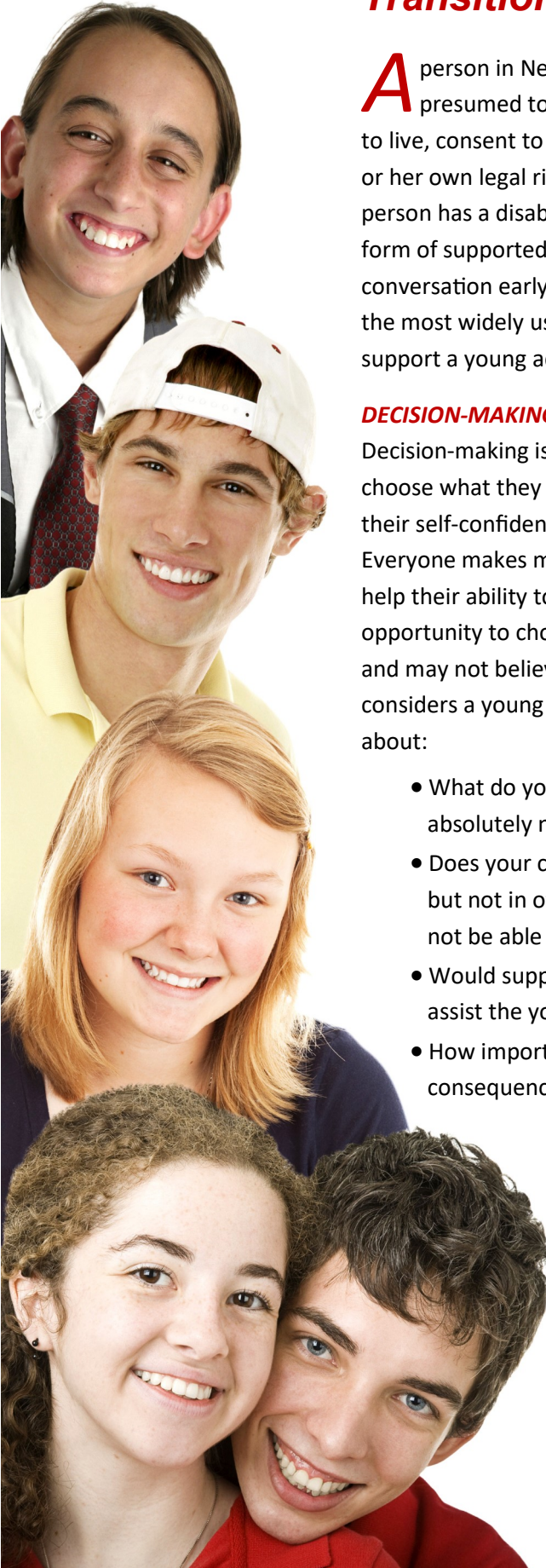
Decision-making is a learned skill. If we give young children the opportunity to choose what they wear, eat or want to do for fun we encourage their independence, their self-confidence and their ability to make decisions that direct their own life. Everyone makes mistakes in decision making at times and these mistakes usually help their ability to make better decisions in the future. If youth are not given the opportunity to choose and make mistakes they are less likely to develop these skills and may not believe they are capable of decision making as adults. As a family considers a young adult's abilities to make their own decisions they should think about:

- What do you worry about as you consider your child's future - is guardianship absolutely necessary or would a less restrictive option do?
- Does your child have skills and strengths in some areas of decision-making, but not in others (e.g., could they decide what classes they want to take but not be able to make financial decisions)?
- Would support from friends, family, technology or professionals be enough to assist the young person with their decisions?
- How important is the decision they need to make and what are the consequences of a wrong decision?

What is Supported Decision Making?

Supported decision making is an alternative to guardianship through which people use friends, family members and professionals to help them understand situations and choices they face, so they may make their own decisions without the "need" for guardianship. It is an emerging approach to providing decision-making assistance without imposing any long-term legal limitations on rights or personal liberties. (Blanck & Martinis, 2015)

¹Got transition, Center for Health Care Transition Improvement, Guardianship and Alternatives for Decision Making Support



LEGAL TOOLS TO SUPPORT DECISION-MAKING

- Release of Information: One option for supporting an individual with a disability is to work with health care organizations, financial institutions and schools to have your adult child sign a release of information form. This allows a parent, family member or guardian to talk with providers, schools and financial institutions and assist with making decisions if needed. An attorney may not be necessary for this tool.
- A Power of Attorney for Finance (POA-F) is a document that authorizes another person (the agent) to handle all the financial affairs of the individual (the principal). Families can use a standard state form (see resources below). An attorney may not be necessary to complete the form.
- A Durable Power of Attorney for Health Care (DPOAHC) authorizes the agent to make health care decisions for the individual, consistent with the terms of the document and based on the wishes of the individual. Families use a standard state form (see resources below) to complete a DPOAHC and an attorney may not be necessary. A General or Financial Power of Attorney may not be authorized to make medical decisions.
- A Power of Attorney for Education / Educational Interests allows a parent or guardian to represent a student's educational interests, communicate with schools, give consent for evaluations, receive notices, attend IEP meetings and assist with making decisions related to school. There is no standard state form but online forms are available and an attorney may not be necessary to complete forms.
- Guardianship is a legal process where a court decides if a person lacks "capacity" to make decisions for themselves and there are no less-restrictive alternatives than guardianship. In New Hampshire there is an option for Full Guardianship or Partial (limited) Guardianship. Once this has been established, the guardian has custody and control over decisions made for the "ward".

While it is possible to complete the guardianship process without legal representation, most families work with an attorney. It is important to find an attorney who is familiar with the different legal options.

Additional Resources

National Resource Center for Supported Decision Making

This online center has a wealth of resources on decision making for adults with disabilities and older adults.

www.supporteddecisionmaking.org

Guardianship and Alternatives for Decision Making Support

A fact sheet developed by Got Transition available at www.gottransition.org/resourceGet.cfm?id=17

NH Durable Power of Attorney for Healthcare - Healthy NH

<http://www.healthynh.com/images/PDFfiles/advance-directives/ACP%20Guide%20revised%20022014.pdf>

NH Financial Power of Attorney Form can be found at:

<https://powerofattorney.com/wp-content/uploads/2013/07/new-hampshire-durable-power-of-attorney-form.pdf>

