

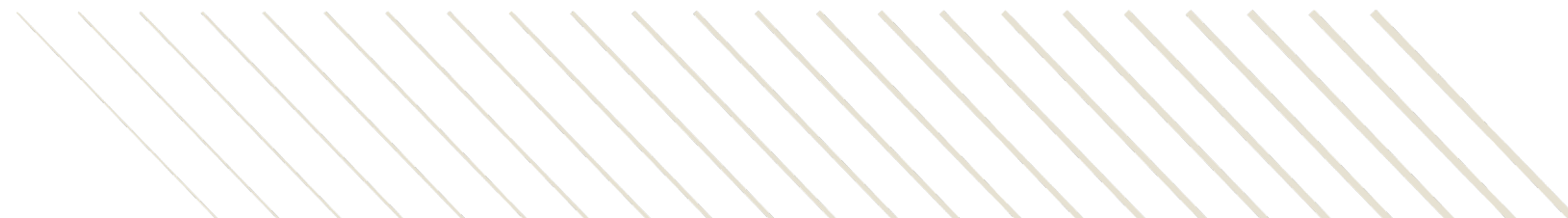
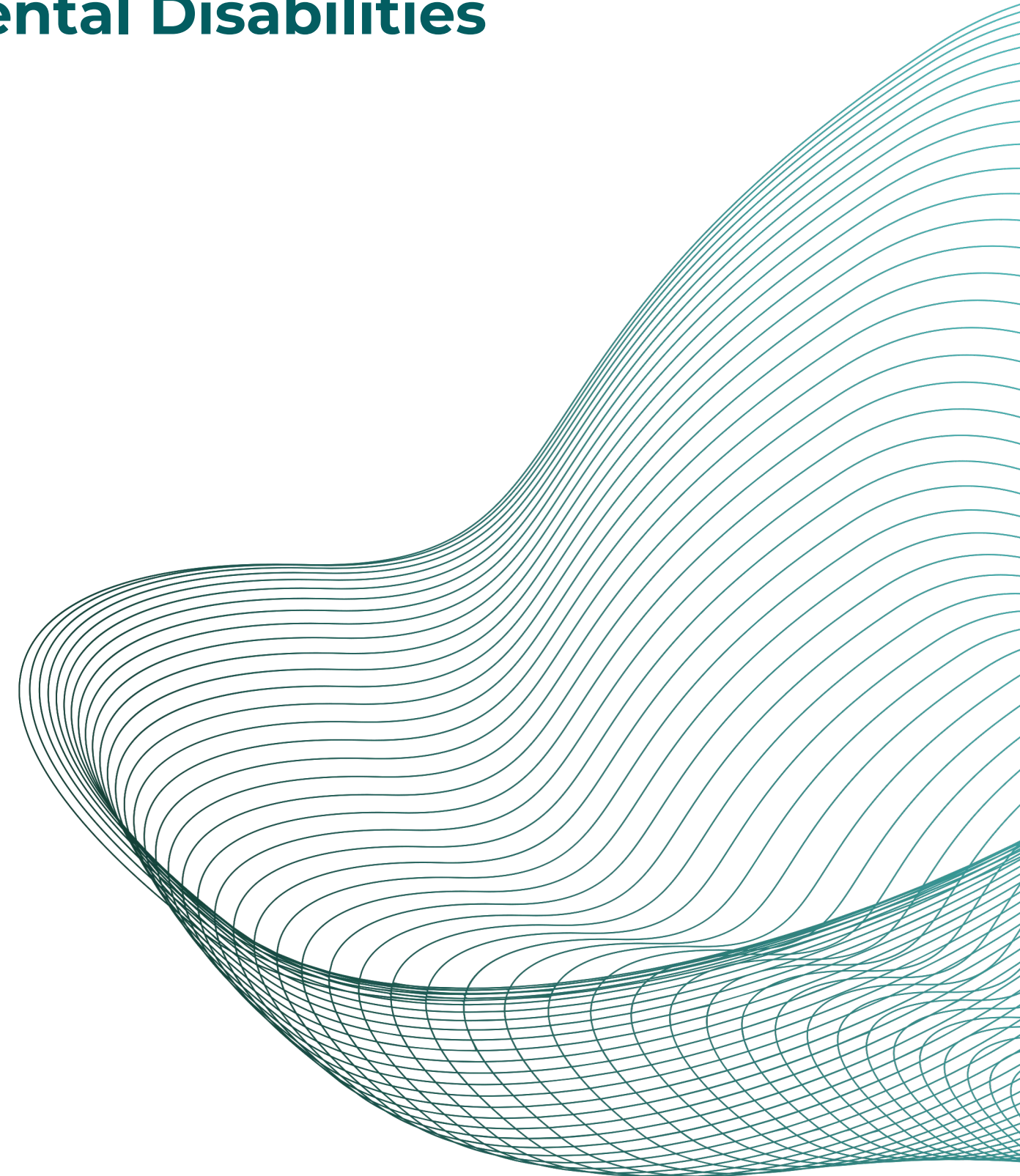


**The Hawai'i State Council on Developmental Disabilities**

# **ALTERNATIVES TO GUARDIANSHIP**

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# MAIN IDEAS COVERED IN THIS PRESENTATION

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## ALTERNATIVES TO GUARDIANSHIP

01

**Overview of Guardianship and Conservatorship and introduction to alternatives**

02

**Supported Decision-Making (SDM):** Benefits, Key Concepts, Legislation, and Practical Application

03

**Power of Attorney:** And Informational releases

04

**Financial Tools:** ABLE Accounts, Representative Payee, and Trusts

# Introduction to Guardianship and Conservatorship

## What is Guardianship?

**Definition:** Legal process to appoint someone to make decisions for an individual unable to do so independently.

## What is Conservatorship?

**Definition:** Focuses on managing an individual's finances and property when they cannot do it themselves.

### ***Similarities***

*Both involve a court process and can limit individual rights.*

### ***Differences***

*Guardianship includes personal decisions, while conservatorship is financial.*

# Types of Guardianship

**Full Guardianship:** Guardian makes all major decisions.

**Limited Guardianship:** Guardian has specific areas of control, e.g., medical decisions.

**Temporary Guardianship:** Short- term solution during emergencies.

# Conservatorship

- **Definition:** When a court appoints someone to manage a person's money or property.
- **Benefits:** Ensures financial security.
- **Drawbacks:** Can limit an individual's control over their finances.

## ***Examples of when this is more appropriate:***

- *Financial Focus Retention of*
- *Personal Rights Specific*
- *Financial Protection No*
- *Personal Care Support  
Required*

# Overview of Alternatives to Guardianship

**Supported Decision  
Making (SDM)**

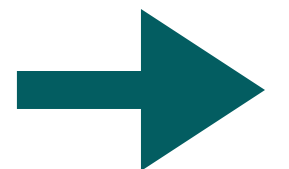
**Living Will or Advance  
Directive**

**Power of Attorney  
(POA)**

**Advanced Instruction for  
Mental Health Treatment**

**Release of Information  
(ROI) and Protected  
Health Information (PHI)**

**Legal and Health Care  
Supports**



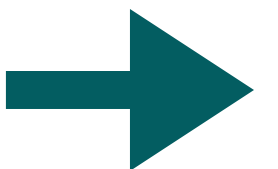
# Options for Representing an Adult Student with Disabilities in Special Education

## Power of Attorney (POA) for Special Education

- For students who **can make decisions** but want support.
- Student chooses a trusted adult (not school staff) to make **SPED decisions**.
- Must be **written, witnessed or notarized**.
- Can be **revoked at any time**.
- School keeps a copy on file.

## Educational Representative

- For students who **cannot make decisions**.
- Parent or spouse acts on student's behalf with:
  - **Doctor's statement** of incapacity,
  - Contact info for student and rep.
- School appoints rep for:
  - **Evaluation, placement, and FAPE decisions**.



# Exploring Alternatives to Guardianship

## Supported Decision Making (SDM)

Making choices with help from trusted supporters.

## Power of Attorney (POA)

A flexible, less restrictive way to provide decision-making support without taking away rights.





# INTRODUCTION TO SDM

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## What is SDM?

- **Definition:** SDM is a process that allows individuals with disabilities to make their own choices with help from trusted supporters.
- **Purpose:** To empower individuals with disabilities to have control over their lives while getting the support they need.

# WHY SDM IS IMPORTANT

## KEY BENEFITS

- **Promotes independence and Self-Determination:** Individuals retain control over decisions instead of having a guardian make decisions for them.
- **Encourages inclusion** in community life.
- **Supports the individual's right** to make decisions about their health, finances, and day-to-day activities.
- It can be used in **conjunction with Guardianship.**

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# HOW DOES SDM WORK?

## 4-STEP PROCESS

*What qualities do you value in a good supporter?*

01

### Pick Supporters

Choose trusted people who can help you.

02

### Decide How They'll Help

Define what type of help you need (e.g., explaining options or helping to communicate with others).

03

### Make the Decision

You stay in control while your supporters assist you.

04

### Change As Needed

Adapt the SDM plan as your life changes.

# EXAMPLE OF SDM AGREEMENT

Supported Decision-Making Agreement

On \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I, \_\_\_\_\_, am entering into a voluntary agreement pursuant to Colorado Revised Statute, Title 15 Article 14 Part 8 “Supported Decision Making-Agreement for Adults with a Disability.” I am entering into this agreement with my supporter(s) as part of my supportive community, who may assist me in understanding issues and choices, and who may answer questions and communicate on my behalf if specifically directed to do so by me. My supporter(s) may also assist me in facilitating decisions regarding my day-to-day health, safety, welfare, or financial affairs by providing me with the most up-to-date and relevant information available and known to my supporter(s). My supporter(s) does(do) not make decisions on my behalf and shall not coerce or manipulate me into making a decision. The decision that is made will be my own final and ultimate decision. Cash or kind will not be exchanged for assistance provided pursuant to this agreement.

**NOTICE:** A person is not subject to criminal or civil liability and does not engage in professional misconduct for an act or omission if the act or omission is one in good faith and in reliance on a supported decision-making agreement and its authority to assist as presented.

ISSUES ADDRESSED PURSUANT TO THIS AGREEMENT

Please Check Appropriate Box/Issue(s)	Name or Names of Supporters	Date Added	Date Removed
<input type="checkbox"/> Banking and Financial Decisions			
<input type="checkbox"/> Health and Medical Decisions			
<input type="checkbox"/> Community Decisions			
<input type="checkbox"/> Housing Decisions			
<input type="checkbox"/> Self-care Decisions			
<input type="checkbox"/> Education Decisions			
<input type="checkbox"/> Employment Decisions			
<input type="checkbox"/> Personal Relationships			
<input type="checkbox"/> Professional Relationships			
<input type="checkbox"/> Other - described as follows:			

Scan this QR Code  
to view the full  
example SDM  
agreement



# SDM LEGISLATION

## RELATING TO SUPPORTED DECISION-MAKING AGREEMENTS.

- Measure Numbers: HB320

### Why this matters

- Allows people to get notarized SDM agreements recognized by banks and healthcare providers.
- Gives individuals the support they need to make informed decisions.
- Includes protections against misuse of SDM agreements.
- Promotes a better alternative to guardianship.



***Scan this QR  
Code to read  
more about  
HB320***

# Power of Attorney (POA)

**What is a POA?** A legal document allowing individuals to appoint someone to assist and or make decisions for them.

## **Benefits of POA:**

- **Maintains decision-making rights** while receiving help. **Flexible, can be canceled or changed.**
- **Person-centered:** You decide the scope of authority given to the POA.
- Can be used in **conjunction with SDM.**

# How Do These Tools Work Together?

Tool	Who Decides?	Used For	Court Involved?
<b>SDM</b>	Individual	All areas, with help	No
<b>POA</b>	Individual/Appointee	Money, health, legal	No
<b>Guardian</b>	Court	Personal & health	Yes
<b>Conservator</b>	Court	Money & property	Yes

- You can use SDM with POA for extra support.
- If no SDM or POA is in place, a court might appoint a guardian or conservator.
- You can combine tools to match your needs.



# Financial Tools for Self- Determination

## ABLE Accounts

- Tax-advantaged savings for disability-related expenses.
- Allows individuals to save without jeopardizing eligibility for benefits.

## Representative Payee

- Manages Social Security benefits for those unable to do so.

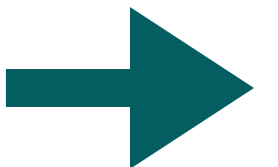
## Trusts

- Living trusts and special needs trusts for financial support.

## Joint bank accounts

- Allows for monitored independence.

*More on ABLE Accounts*





# ABLE Accounts



HAWAII'S ABLE  
SAVINGS PROGRAM

The Hawaii Achieving a Better Life Experience (ABLE) Program allows **individuals with disabilities to save money** for their future while maintaining eligibility for government benefits like SSI and Medicaid.

- **Save money without losing benefits**
- **Grow your savings tax-free**
- **Spend on what you need:** Use your account for things like medical costs, education, housing, transportation, and more.
- **Save up to \$100,000:** You can save up to \$100,000 in your ABLE account without affecting your SSI benefits.
- **Contribute up to \$19,000 per year:** You can add up to \$19,000 each year, including gifts from friends, family, or others.



***Scan this QR  
Code to visit the  
ABLE Account  
website and  
apply!***

**QUESTIONS?**

# Conclusion

## Summary of Key Points:

- **Alternatives to guardianship** provide more autonomy while ensuring necessary support.
- **Use financial tools and POA** to maintain control over decision-making.
- **Contact the Hawaii State Council on Developmental Disabilities** for more information.

# Contact

## Hawaii State Council on Developmental Disabilities

Address: Princess Victoria  
Kamamalu Building, 1010 Richards  
Street, Room 122

Phone: (808) 586-8100

Website: <https://hiddcouncil.org>

