

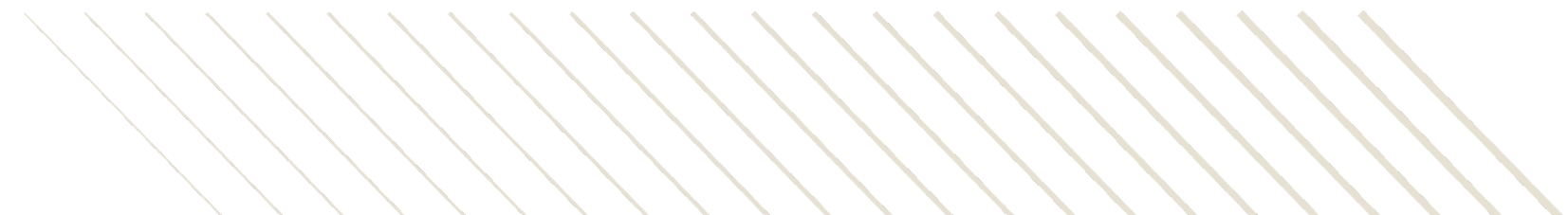


**The Hawai'i State Council on Developmental Disabilities**

# **Supported Decision Making:**

**An Alternative to Guardianship**

**By:Che Silvert**



# MAIN IDEAS COVERED IN THIS PRESENTATION

---

## SUPPORTED DECISION MAKING

01

**Introduction to Supported Decision Making**

02

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

03

**Overview of Guardianship and Conservatorship**

04

**Supported Decision Making Tool Kit**

05

**Supported Decision Making Agreement**

06

**Other Supports:** ABLE Accounts, Special Needs Trust, Power of Attorney



# What is Supported Decision-Making?

*SDM helps people with disabilities make their OWN decisions — with support from trusted people, not someone making choices for them.*

## **Team Effort**

The person works with supporters to understand options and decide.

## **Person in Charge**

The final choice always belongs to the person — not their supporters.

## **Flexible**

Used for healthcare, finances, education, housing, or daily life.

*SDM is a better alternative to guardianship — which takes away the right to decide. SDM keeps the person in control.*

# 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.**

# Who Is Involved in SDM?

## The Decision-Maker

- The person with a disability, always in charge
- Has the right to decide about healthcare, money, education, daily living
- Decides where they need help and how to be supported
- Always makes the final choice

## Supporters

- Trusted people chosen by the decision-maker
- Can be family, friends, advocates, or professionals
- Explain information in understandable ways
- Explore pros/cons — but NEVER decide for the person

## Service Providers / Legal Advisors

- Help set up and facilitate the SDM process
- Educate decision-makers and supporters
- Ensure SDM agreements follow the law
- Help create written agreements if needed

*Key: SDM works best when everyone respects the decision-maker's right to lead.*

# How Does SDM Work?

## 1 Identify Support Needs

Think about which areas of life you need help with — healthcare, money, housing, education — and what kind of support you need.

## 2 Choose Supporters

Pick trusted people: family, friends, or professionals who listen, don't take over, and respect your wishes.

## 3 Create an SDM Agreement

Write down what decisions you want help with, who your supporters are, and what they're allowed to do.

## 4 Use the SDM Process

Work with supporters to gather info and explore options. You decide. Supporters help communicate if needed.

## 5 Review & Update

Revisit your plan regularly. Update it when needs change, when you start a new job, or when you want to add/remove supporters.

# 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*

# 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***

# Creating an SDM Agreement

## What to Include

- Decision-maker's name
- Areas where support is wanted (healthcare, finances, housing, etc.)
- Names of supporters and each person's specific role
- A clear statement that the decision-maker makes all final choices
- Signatures of the decision-maker and all supporters
- Date and plan for regular review

## Legal Considerations

- In Hawai'i, SDM is legally recognized
- Must be signed before a notary public OR two witnesses
- Witnesses cannot be supporters, monitors, or the decision-maker
- The agreement is voluntary and can be changed or cancelled at any time
- Consult a lawyer or advocate to ensure it follows local laws
- SDM can be used as an alternative to guardianship

# SDM ToolKit

- Everything you need to know to get started
- Resources and further information
- Detailed information



## Table of Contents

### **1. Introduction to Supported Decision-Making (SDM)**

- What is Supported Decision-Making?
- Purpose of the Guide

### **2. Why Is Supported Decision-Making Important?**

- Addressing Ableism and Benevolent Ableism
- Promoting Equality Through SDM
- Creating Inclusive Communities

### **3-4. Who is Involved in SDM?**

- The Decision-Maker
- Supporters
- Service Providers or Legal Advisors

### **5-6. How Does SDM Work?**

- Identifying Support Needs
- Choosing Supporters
- Creating an SDM Agreement
- Using the SDM Process
- Reviewing and Updating

### **7. Challenges and How to Address Them**

- Finding Supporters
- Understanding the Process
- Resistance to Change

### **8-9. Legal Considerations**

### **10. Examples of Supported Decision-Making**

- Healthcare
- Finances
- Education or Work
- Daily Life

### **11. Benefits of Supported Decision-Making**

### **12-13. Creating an SDM Plan**

- SDM Plan Template

### **14-15. Resources for SDM**

- National and State Resources

### **16. Conclusion**

- Summary of SDM's Importance
- Building a Just and Inclusive Society

### **17-. Appendix, Templates & FAQ**

- When Do I Want Support- Assessment
- Supported Decision Making Agreement



# 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.

# Overview of Alternatives to Guardianship

**Supported Decision Making (SDM)**

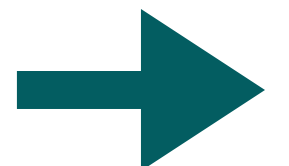
**Living Will or Advance Directive**

**Power of Attorney (POA)**

**Advanced Instruction for Mental Health Treatment**

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

**Legal and Health Care Supports**



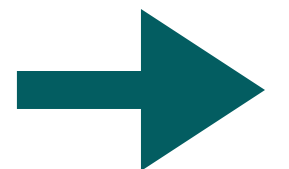
# Options for Representing an Adult Student with Disabilities in Special Education

## 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**.



# 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?

<b>Tool</b>	<b>Who Decides?</b>	<b>Used For</b>	<b>Court Involved?</b>
<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.

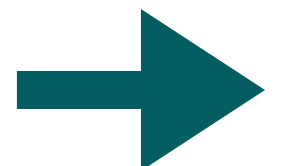
## Trusts

- Living trusts and special needs trusts for financial support.

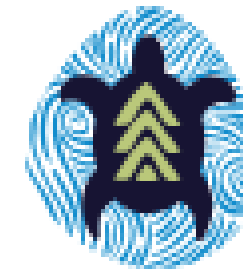
## Joint bank accounts

- Allows for monitored independence.

*More on ABLE Accounts*



# ABLE Accounts



HAWAII'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!***

# What Can ABLE Pay For?

Anything that improves the **health, independence** or **quality of life** of the person with a disability

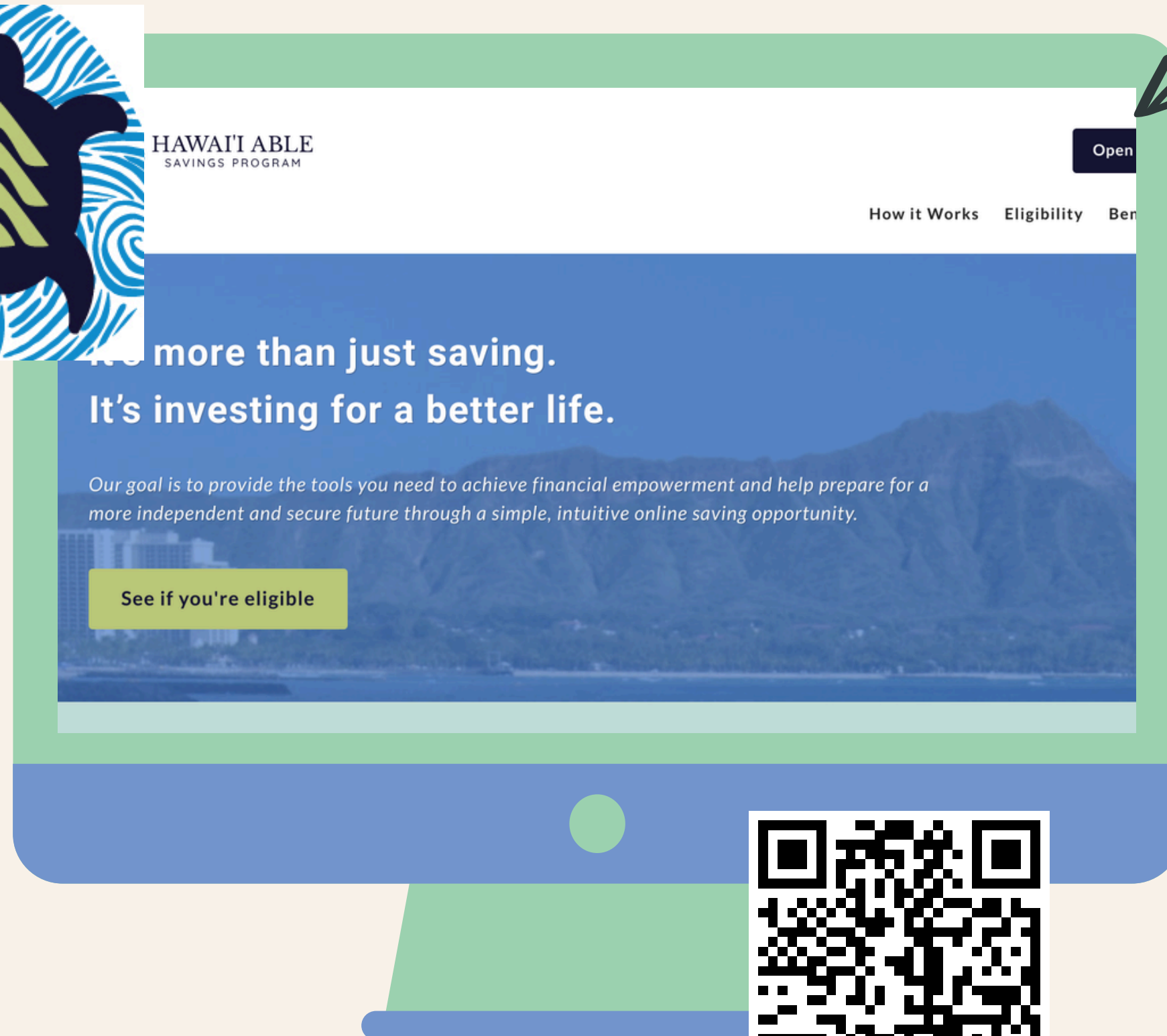
-  Basic Living Expenses
-  Live in your Community
-  Education
-  Assistive Technology
-  Transportation
-  Health, prevention and wellness
- 

-  Employment, training and support
-  Personal support services
-  Legal fees
-  Financial management
-  Administrative services
-  Funeral and burial costs
- 

# How to Open an Account



Open an account or learn more at [www.hawaiiable.com](http://www.hawaiiable.com)



You will need:

- Date of birth
- Social Security Number or ITIN
- Email address
- Bank account information

Only takes 15 minutes to open an account!



# HAWAI'I ABLE

## SAVINGS PROGRAM

Learn more about Hawai'i ABLE Savings Plan  
by contacting Daintry Bartoldus  
[Daintry.Bartoldus@doh.hawaii.gov](mailto:Daintry.Bartoldus@doh.hawaii.gov)  
(808) 586-8100



**QUESTIONS?**

# Conclusion

## Summary of Key Points:

- **Supported Decision Making!**  
**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>

