

Voluntary Guardianship - If you are unable to manage your property but are considered mentally competent, the court appoints a guardian to help you manage your affairs. This is something that you decide voluntarily; you can change your mind by going back to court later.

Emergency Temporary Guardianship - If you seem to be in imminent danger and your decision-making ability is questioned in court, the judge can appoint an emergency temporary guardian for you. This type of guardianship expires 90 days after a guardian is appointed.

Limited Guardianship - If the court finds that you are incapacitated only in specific areas, it can appoint a guardian to help you in those areas.

Full Guardianship - If the court finds that you are totally unable to make decisions for yourself, it transfers all of your legal rights—concerning you and your property—to a guardian.

Important Points to Remember

- Explore the least restrictive options first.
- Do research or get legal advice before making any decision involving your rights.
- Before choosing someone to make decisions for you, make sure it's someone you trust and that they are willing to help.
- Both you and your legal representative should keep copies of the papers that name your legal representative.

Visit these sites for more info

floridalawhelp.org

floridabar.org

fddc.org



agency for persons with disabilities
State of Florida

DECISION-MAKING OPTIONS

Exploring ways that people with disabilities can get help with making decisions



Agency for Persons with Disabilities
4030 Esplanade Way, Suite 380
Tallahassee, Florida 32399-0950
1-866-APD-CARES (1-866-273-2273)
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apdcares.org

What are your rights?

Your legal rights give you the ability, under law, to make decisions that affect your quality of life. Some examples include the right to:

- Choose where to live
- Manage money and property
- Agree to medical or dental treatments
- Apply for government benefits
- Choose your social activities
- Sign contracts
- Get married
- Find employment

If you are seeking or receiving services from the Agency for Persons with Disabilities (APD) or other government agencies, you will have to make decisions, and you may feel that you need some assistance. This brochure informs you about ways you can get assistance with decision making; however, *it is not legal advice*. If any of these options seem like they might be useful, you may do research and speak with an attorney.

Client Advocacy - If you need guidance and would like help in making decisions about services you receive from APD, you may appoint someone as your client advocate. You will still make your own decisions. A client advocate cannot make them for you, nor can they access your confidential information without your permission.

Guardianship

Guardianship is an option for those who need help in decision making. It requires two actions by a court: a ruling on your decision-making ability and the transfer of some or all of your rights to the guardian.

Types of Guardianship

Guardian Advocate - Under Florida law, this type of guardianship does not require that a judge declare you incapacitated. It transfers the rights that are necessary to care for you or your property to another person—your *guardian advocate*. This is usually considered to be the least restrictive, less costly, and much preferred type of guardianship for people with developmental disabilities.

Alternatives to Guardianship and Options for Decision Making

• **Make Your Own Decisions**

This is the least restrictive and most commonly used decision-making option. APD can provide varying degrees of assistance depending on your wants and needs.

• **Banking Services**

There are various ways your money can be managed so that you feel safe and secure about your banking. These include assigning someone as power of attorney who officially acts for the owner of the account, creating a joint bank account with two or more people, or establishing a direct deposit system.

• **Power of Attorney (POA) and Durable Power of Attorney (DPOA)**

You can establish power of attorney to give another adult legal authority to act and make decisions on specific matters for you. A power of attorney is “durable” if it specifically provides that it will remain in force even if you are subsequently incapacitated. Any legally competent adult with a disability who is capable of giving informed consent can give durable power of attorney to the person of their choosing.

• **Representative Payee**

If you are unable to manage your own money, the Social Security Administration (SSA) allows you to name an individual or agency who receives and manages your federal benefits. You must notify the SSA and complete the necessary paperwork to establish this service.

• **Advance Directive**

An advance directive documents how you want your health care rights handled and who you want to exercise your medical rights when you are unable to make those decisions. It

can include instructions on life-prolonging procedures, as well as expressions of spiritual, personal, or emotional wishes. A health care surrogate designation names another person to make health care decisions for you, apply for public benefits, and access medical records.

• **Medical Proxy**

In a situation where you lack capacity and need medical decision-making assistance and you have not established an advance directive or medical power of attorney, a medical proxy is an option.

Florida law lists the order of priority of persons who can make health care decisions for you.

• **Trust**

This is a legal arrangement where a trustee manages property and/or funds for the benefit of the beneficiary of the trust. A special needs trust allows a beneficiary with a disability to hold assets and not risk losing his or her eligibility for certain government programs.