

**A. General Principles for an initial statute recognizing SDM and SDMA  
(Short Version)**

- I. SDM and SDMA should be defined in easily understandable and non-exclusive terms
- II. Everyone should be able to make an SDMA, and there should be no negative consequences for doing so. No one should be prevented from making an SDMA based on traditional definitions of “capacity” that discriminate against persons with disabilities
- III. A person’s use of SDM and/or making an SDMA should be considered by courts as evidence of a “less restrictive alternative” to guardianship regardless of their disability and whether their SDMA is one which requires legislative recognition for decisions made pursuant to it.
- IV. Persons making SDMA, the “Decision-Makers,” have the sole right and power to choose the areas in which they want support, the kinds of support they want, and the person(s) from whom they want that support
- V. A decision made pursuant to an SDMA can only be made by the Decision-Maker, and not by Supporters, and only the Decision-Maker is responsible for the decision
- VI. Supporters should respect the right of Decision-Makers to make their own decisions and should not engage in substitute decision-making, undue influence or conflict of interest
- VII. The Decision-Maker can change or revoke the SDMA at any time
- VIII. There should be only modest formalities required for execution of an SDMA

- IX. Because guardianship is a significant or total deprivation of a person's liberty and/or property rights, and less restrictive alternatives must be considered before guardianship can be imposed, relevant state actors should make information about SDM and SDMA available, including in plain language**

## **B. Principles for legislative recognition and third-party obligation to honor SDMA**

### *In order to receive legal recognition,*

- X. SDMA should be in a form, or using a template, authorized by the legislature, but Decision-Makers and their Supporters should be able to vary or modify the form/template so long as the SDMA substantially complies with its terms and provisions**
- XI. SDMA should be signed in the presence of two adult witnesses who are not themselves parties to the agreement, and who understand, with support if necessary, the Decision-Maker's chosen means of communication**
- XII. SDMA should be the result of a process of facilitation or education designed to ensure that the Decision-Maker understands what goes into making a decision and obtaining support, and that Supporters understand their roles and how those roles may differ from their pre-existing relationships with the Decision-Maker**
- XIII. A person (third party) should be obligated to accept the legal capacity of the person with DD (the Decision-Maker) and give full legal effect to their decisions made pursuant to that SDMA, unless the third party has reasonable cause to believe that the decision is the product of exploitation or abuse**
- XIV. A person (third party) who, in good faith, relies on a decision made pursuant to that SDMA should not be subject to civil or criminal liability, or to discipline for unprofessional conduct**