

Power of Attorney (POA): a power of attorney is a legal document in which you assign someone to make choices for you *if* you need their help. This might be helpful if you're sick, or need help with financial decisions. You do not have to go to court to get a power of attorney in place. This means that most times, you can end the power of attorney whenever you want to.

Advanced Directives: Advanced directives are sometimes called a "living will." You write out your preferences for future medical treatment in case you get too sick to tell people what you want. For instance, you might say that you do not want to take a medication that gives you bad side effects. You could say which doctors you want to see if there is an emergency. You're letting people know in advance what your desires are.

Supported Decision-Making Agreement (SDMA): a plan for the supports you need depending upon your health and the decisions you're facing. You can get support from a case manager, friends, family, support staff, and others. And you can work together to clarify the supports you need and when you need them.

Some recent legal developments in New Mexico about guardianship and alternatives:

Supported Decision-Making Act (2025)

Bill of Rights for Adults Who Have a Guardian (adopted by NM Supreme Court in 2025).



Disability Rights New Mexico

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Disability Rights New Mexico (DRNM) is a private, non-private organization that serves as the designated Protection and Advocacy system for the state of NM. We provide free legal services and advocacy support to individuals with disabilities.



ALTERNATIVES TO GUARDIANSHIP

What is a Guardian?
*Do I **really** need one?*



WHAT IS A GUARDIAN?

A **guardian** is a person who makes legal decisions for another person who has a disability. A judge must decide that the disabled person (sometimes called “the protected person”) is unable to make safe decisions. The judge puts the guardian in charge of the protected person’s legal decisions.

WHAT DOES A GUARDIAN DO?

It depends. There are **different kinds of guardians**. Some guardians make decisions about the protected person’s health care, while other guardians decide where a person lives. Often, guardians make all legal decisions for the protected person. It depends upon what the judge thinks that the disabled person needs.



WHAT DOES A GUARDIAN NOT DO?

A guardian should only make **legal** decisions for the protected person. These kinds of decisions should be described in the judge’s guardianship order. Guardians generally have no right to make other decisions. **A protected person can still choose things like: what to eat and drink, what to do with their time, who be friends with, and who to vote for.**

HOW DOES THE JUDGE DECIDE WHO GETS A GUARDIAN?

The judge listens to the opinions of people who know the person with a disability. The judge may listen to the person, their family, doctors, therapists, teachers, friends, and others.

Just because you have a disability does not mean you require a guardian.



I HAVE A DISABILITY. DO I NEED A GUARDIAN?

No! Many people with disabilities live safely and happily without a guardian. Everybody needs help making decisions. But just because **you have a disability does not mean that you need a guardian** to make decisions for you.

WHAT ARE OTHER WAYS I CAN RECEIVE HELP?

There are many alternatives to guardianship. Here are some examples:

Representative Payee: If you receive a monthly check from Social Security, you might consider having a “rep payee,” which is a person who manages your finances. A rep payee pays your bills and makes a budget for you.

Joint Bank Account: You and another person work together to manage your money by sharing access to a bank account. They can check to see how you spend your money.