

accessABILITY opposes guardianship for people with disabilities and supports the use of less restrictive alternative options.

In August 2020, [the National Council on Independent Living released a position statement](#) on guardianship. Our organization stands behind their message, which can be read below:

NCIL opposes the use of guardianship for people with disabilities. Guardianship is the legal process that decides that an adult's disability has rendered them "incapacitated". They are declared a "ward" and assigned a "guardian," and some or all of their decision-making powers are transferred to the guardian. Adults under guardianship do not have the legal authority to make decisions about employment, voting, health care, marriage and family, where they live, or other important parts of their life. Guardianship is intended to be lifelong, and it is extremely difficult or impossible to reverse.

The talk of guardianship often occurs when a person with a disability is approaching their 18th birthday. However, from an early age, medical providers and educators set low expectations for children with disabilities and do not give them a chance to explore interests, skills, and talents that help lead to independence. Parents of children with disabilities are rarely given the resources about the alternatives to guardianship. Instead, from the child's early age, they are often told by medical providers, lawyers, social workers, and educators to plan for a future where guardianship is the only option.

The Independent Living philosophy is grounded in the unwavering belief that all people with disabilities must have the right to make decisions about their own lives. Guardianship denies people that right. CILs can and should help consumers avoid guardianship at all costs. Not only is this an important civil rights issue but assisting consumers to maintain control of their lives is also one of the main goals of the independent living program and philosophy.

NCIL considers guardianship to be a form of institutionalization, depriving individuals with disabilities of essential freedoms, suppressing individual choice and personal expression, and making self-determination impossible. Moreover, the use of guardianship fosters the perception that adults with disabilities are unable to function in society and has the potential to

segregate the individual from their community, isolate them, and further marginalize and oppress them.

NCIL does support less restrictive alternatives to guardianship such as supported decision-making (SDM) and power of attorney (POA). SDM formalizes the supports all people rely on in decision-making by asking trusted advisors for guidance. It allows the individual to remain in control and direct the decisions about their life. It allows disabled adults who need assistance in decision-making to choose trusted friends, family members, and/or professionals to help them understand the situations with choices so they can make an informed decision. POA permits the individual to designate others to make decisions on their behalf, but also to revoke that authority when they feel prepared to resume the decision-making role. Through SDM and, when needed, POA, the person along with their trusted support system creates agreements – formal, informal, or both – and is therefore empowered to direct their own life without losing the basic rights we all take for granted. By maintaining the legal right to self-govern a person is free to lead their own life.

NCIL encourages all CILs and SILCs to work with their local and state leaders to bring about change by advocating for recognized alternatives to guardianship. All policies and legislation about people with disabilities should include input from consumers and have the following assumptions.

- All adults with disabilities should be presumed to have the capacity to be able to live in the manner they wish and to accept or refuse support, assistance, or protection.
- All adults with disabilities should be involved and make the final decisions about the management of their affairs.
- The way an adult with a disability communicates with others is not grounds for deciding that the adult is incapable of decision-making.

As a Center for Independent Living, accessABILITY represents and serves the disability community. We have seen the firsthand success of utilizing supported decision-making and other alternative options. In addition, we have seen the negative impacts of guardianship and the unintended consequences that often occur when a person's rights and autonomy are overly restricted. We encourage our consumers and the families we support to seek the least restrictive option and strive to ensure that personal autonomy and independence remain. As an organization, we can

provide resources, training, and support on supported decision-making and other alternatives to guardianship.

Please contact accessABILITY for further information by emailing info@accessabilityin.org