

Supported Decision-Making

Considering *Safe* and *Legal* Alternatives to Guardianship

By Thomas F. Coleman, J.D.
Legal Director
Spectrum Institute

Supported Decision-Making / Traveling Down the Yellow Brick Road

Decisions – Everyone Makes Choices

Support – We All Get Help

Transitioning – Childhood to Adulthood

Civil Rights Protections

Types of Decision-Making

Areas of Major Life Decisions

Decision-Making Capacity

Pro-Active or Reactive

SDM, POA, or Guardianship

How to Assess/Create SDM Agreements



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APPS & SIDES

½ Pan Serves 8-10, Full Pan Serves 16-20

Fresh Fruit Tray
½ Pan \$30..... Full Pan \$45

Fruit Kabob Trays with Yogurt Dipping Sauce
½ Pan \$35..... Full Pan \$50

Cheese & Cracker Tray
½ Pan \$35..... Full Pan \$50

Meat & Cheese Tray
½ Pan \$40..... Full Pan \$60

Veggie Tray
½ Pan \$30..... Full Pan \$50

Veggie Kabobs with Hummus & Ranch
½ Pan \$40..... Full Pan \$60

Shrimp Cocktail
½ Pan \$35..... Full Pan \$50

Spinach Artichoke Dip with Tortilla Chips
½ Pan \$40..... Full Pan \$60

Queso Dip with Tortilla Chips
½ Pan \$40..... Full Pan \$60

Chips & Salsa
½ Pan \$25..... Full Pan \$40

Buffalo Chicken Dip
½ Pan \$40..... Full Pan \$60

Toasted Ravioli Tray
½ Pan \$30..... Full Pan \$50

Crab Rangoon Tray
½ Pan \$35..... Full Pan \$60

Pasta Salad
Caesar, Southwest, or Italian
½ Pan \$35..... Full Pan \$60

Mac and Cheese - 5 Cheese Blend
½ Pan \$30..... Full Pan \$60

Coleslaw
½ Pan \$25..... Full Pan \$50

Cheesy Potatoes
½ Pan \$35..... Full Pan \$65

Potato Wedges
½ Pan \$20..... Full Pan \$40

SALADS

HMC Favorite Salad
Field greens, walnuts, provol cheese, apples, cranberries, cucumbers, peppers, mixed dressings
or Garden, Caesar Salad or Southwest
½ Pan Serves 10-15.....\$25
Full Pan Serves 20-25.....\$50

DESSERTS

Cupcakes.....\$2.50/pp
Cookies.....\$1/pp
Pastries.....\$3/pp
Ice Cream Bar.....\$4/pp
Cakes & Pies.....starting at \$30



Fried Banana Cheesecake Bites

30-Bite Trays
Served with Cinnamon Maple
Fried Banana Cheesecake Bites.....\$25
Fried Brownie Bites.....\$25
Mixed Bites.....\$25

BEVERAGES

Bottled Water, Soda, & Tea.....\$1.89
½ Gallon Sweet/Unsweet Tea.....\$2.99
2 Liter soda.....\$2.99
½ Gallon Juice.....\$5.99
Coffee.....\$1.89

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Transitioning – Child to Adult to Senior

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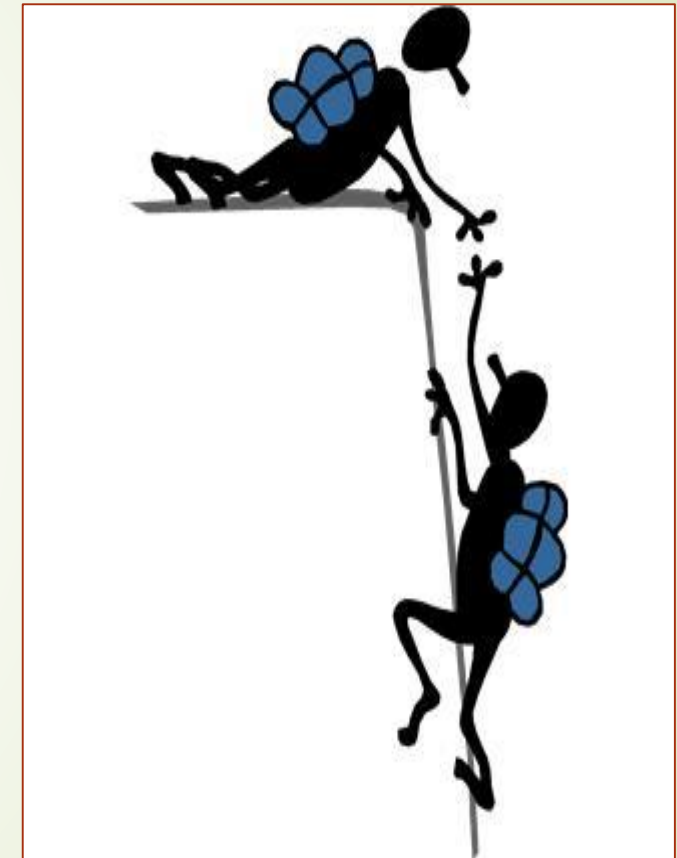
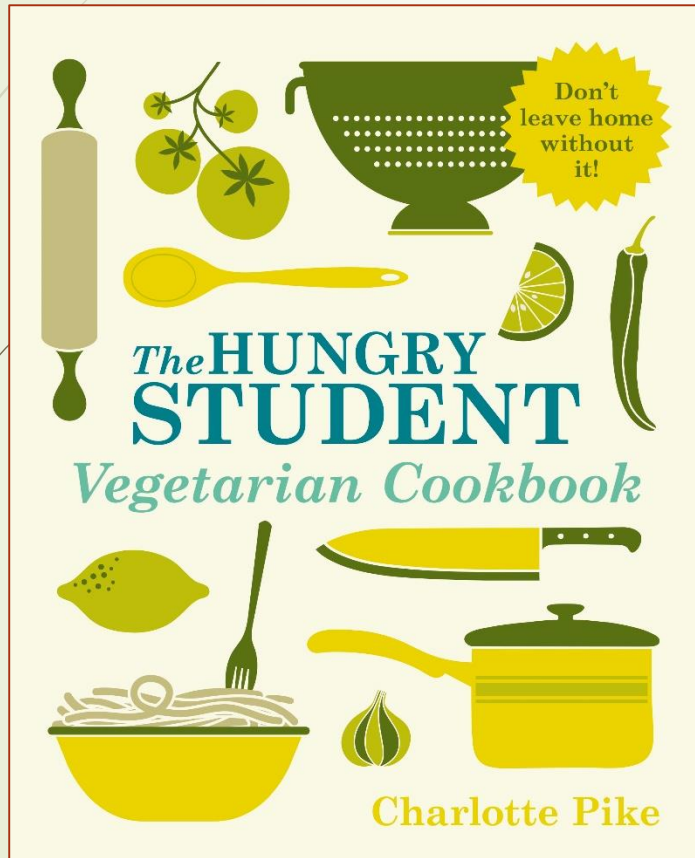
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Dependent – Birth to 12

Semi-Dependent – 12 to 17

Independent – 18 +

Semi-Dependent – 65 +



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Guardianship Law – maximizing **independence** / freedom from **abuse**

Constitution --



freedom of **speech** / freedom from speech
freedom to **associate** / not to associate
freedom of **religion** / freedom from religion
liberty – freedom from **restraint**, isolation
liberty – maximizing **autonomy** and choices
due process – procedural **fairness**
privacy – **sexual** conduct and relationships

ADA – access to **services**; access to **justice** (guardianships)

United Nations – Convention on Rights of Persons with Disabilities

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✓ Types of Decision-Making

Totally Independent



Independent with Help (SDM)



Delegating to Another (POA)



Substituted Judgment (Court)



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✓ Areas of Major Life Decisions

Medical Care

Confidentiality

Finances

Housing

Education



Employment

Marital

Social

Sexual

Voting

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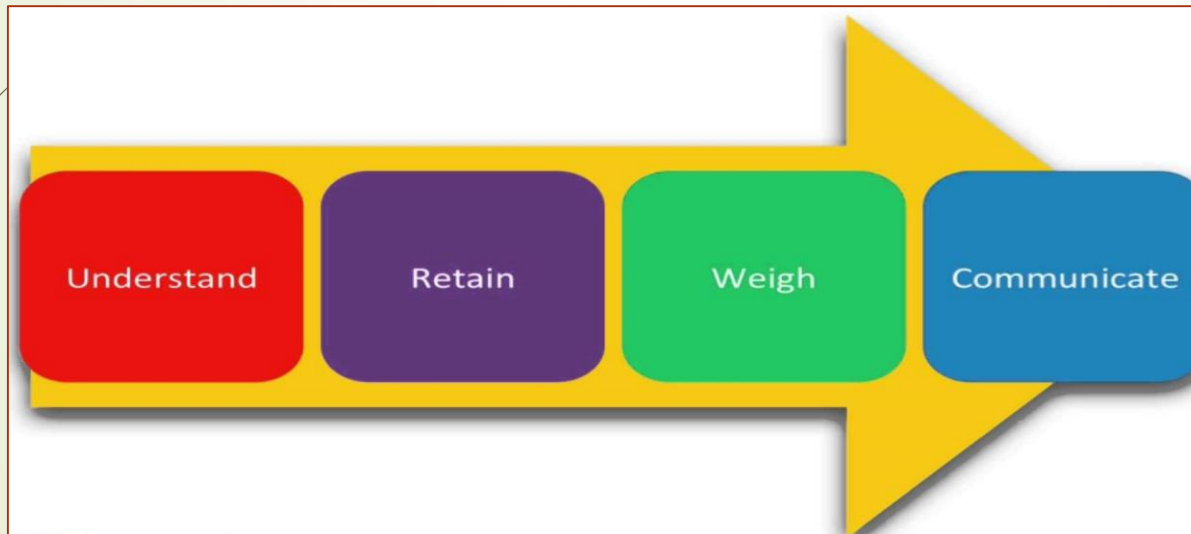


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✓ Decision-Making Capacity

Birth to 18 = Presumption of Parental Authority

18 and over = Presumption of Authority by Individual



Capacity has four elements

But . . .

I/DD may raise ???
by doctor
by school
by bank
by landlord
by police

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Plan for transition
to adulthood?



Or wait until a
problem arises?



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Power of attorney only requires **capacity when it is created**

SDM requires capacity when created **and at all times later**



Guardianship does **not** require capacity

Capacity = understanding information, voluntary choices, no undue influence, and no conflict of interest

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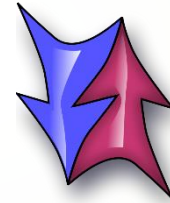
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Social Services – Planning Process – (1) Person centered planning with each area of decision-making assessed by a **qualified professional**; (2) **Referral to attorney** to draft SDM documents; (3) **Effective monitoring** to reduce the risk of abuse



Probate Court -- Guardianship – (1) Petitioner asks for evaluation of adult for **less restrictive alternatives** in each area of decision-making; (2) court-appointed attorney initiates request for evaluation if it was not already done, or appointment of a **capacity expert(s)**.

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For More Information

www.spectruminstitute.org/sdm