



Center for
Self-Determination

F R E E D O M to live a meaningful life in the community
A U T H O R I T Y over financial resources
S U P P O R T to organize resources in ways that are life-enhancing and meaningful to the individual with a disability
R E S P O N S I B I L I T Y for the wise use of public dollars, and recognition of the contribution that individuals with disabilities can make to their communities
C O N F I R M A T I O N of the important leadership role that self-advocates must play in a newly-redesigned system

LEARNING OPPORTUNITY:

RE-THINKING GUARDIANSHIP AND PROMOTING SELF-DETERMINATION

IN BRIEF

When professionals and other people who are part of support systems are faced with questions about an individual's decision-making capacity, they are often led to the concept of incompetence and the promotion of legal guardianship. This is a process that everyone would prefer to avoid and that unfortunately can result in total lack of control and power of the individual over his or her own life. Fundamental rights of individuals which all citizens of our country expect and enjoy can be limited under guardianship. These rights may include marriage, voting, the right to procreate, and privacy. In addition, the power to make simple day-to-day decisions is often given to a surrogate decision-maker, further negating the meaning of the self-determination process for the individual.

The very concept of competence is fluid and varies under law. Courts differ on issues such as competence to make medical decisions, have sexual relations, competence to be a witness in a trial, or to bring a criminal complaint to prosecution. In addition, problems exist almost universally with abuse of guardians' powers and lack of meaningful due process in guardianship hearings.

The movement toward self-determination necessarily promotes the concept of assisted competence and the use of alternatives to guardianship as a more consistent and respectful approach to decision-making. Such alternatives include person-centered planning, powers of attorney, next-of-kin policies, amenities trusts, and legislation that supports these alternatives.

Those who work in service and support systems will find it helpful to examine the process that has been traditionally used to consider consent issues. This will be an opportunity to re-think this process and gain information about alternative methods to approach and resolve problems raised by consent issues that preserve the civil rights and integrity of the individual. This is a necessary step toward promoting meaningful self-determined lives for all citizens.

**TO REGISTER FOR THIS OR ANY OTHER LEARNING OPPORTUNITY,
CONTACT THE CENTER AT THE NUMBERS OR WEBSITE BELOW.**

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IT'S ALL ABOUT FREEDOM.

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