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State Guardianship Laws and Supported Decision-Making in the United States After *Ross and Ross v. Hatch*: Analysis and Implications for Research, Policy, Education, and Advocacy

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Abstract

In the last decade, and especially after the 2013 Virginia court case of *Ross and Ross v. Hatch*, there has been a dramatic increase in knowledge, use, and legal recognition of supported decision-making (SDM) in the United States. SDM is a methodology in which people work with trusted friends, family members, and professionals who help them understand their situations and choices so they may make their own decisions and direct their lives. After the *Hatch* case, in which a young woman with Down syndrome defeated a petition for permanent guardianship by demonstrating that she uses SDM, this methodology has increasingly been considered and used as an alternative to guardianship to enable people to retain their legal rights and make life choices to the maximum extent possible. This article reviews the guardianship laws of the 50 U.S. states and the District of Columbia. Using criteria we developed, in light of the findings and values expressed in *Hatch*, we assessed the extent to which those laws recognize or encourage the use of SDM as an alternative to guardianship and as a means to enhance self-determination for people in guardianship. We then offer recommendations for future SDM research, policy, education, and advocacy efforts.

Keywords

supported decision-making, self-determination, guardianship

In the last decade, there has been a dramatic expansion in knowledge, use, and legal recognition of supported decision-making (SDM) in the United States (e.g., Martinis & Blanck, 2019). Although there is no *one-size-fits-all* model of SDM, people generally use the SDM paradigm when they work with those whom they trust, who help them understand their situations and choices so they may make their own decisions to the maximum extent possible (e.g., Blanck & Martinis, 2015; Dinerstein, 2012; Eyraud & Taran, this issue). SDM thus "mirrors what happens for most adults when they make decisions . . . they seek advice, input and information from friends, family or professionals who are knowledgeable about those issues, so they can make their own well-informed choices" (Quality Trust for Individuals with Disabilities, 2013, p. 2).

Especially after the 2013 Virginia court case of *Ross and Ross v. Hatch* that we introduce in this article, there has been a dramatic increase in general knowledge, use, and recognition of SDM in law and policy. In less than 10 years, as of this writing, 11 states passed laws recognizing SDM as a preferred alternative to *guardianship*—also called *conservatorship* or *interdiction* in some states—where a court formally appoints someone to make some or all decisions in the place of an "incapacitated" person (Blanck & Martinis, 2015). Because the majority of states and the District of Columbia use the term *guardianship*, we use that term throughout this article.

In addition, courts across the United States have denied or terminated guardianships because a person used or was able to use SDM. There are also federal, state, and privately funded research, outreach, and technical assistance projects dedicated to increasing knowledge of and access to SDM

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(Martinis & Blanck, 2019; National Resource Center for Supported Decision-Making, n.d.).

We posit that this recent "avalanche" of SDM may be traced to Margaret "Jenny" Hatch, a 29-year-old woman with Down syndrome (Vargas, 2013). In 2013, Jenny emerged from a courtroom in Newport News, Virginia, as the first person in the United States to win the legal right to choose where and how to live using SDM (Blanck & Martinis, 2015). One year earlier, in the same courtroom, Jenny was ordered into guardianship, although she had been employed at the same community-based, competitively paid job for 5 years; lived in and maintained her own apartment; was politically active; and had a church she attended and friends she saw when she wanted (Hatch, 2015, n.d.; Hatch et al., 2015; Martinis & Blanck, 2019). Despite Jenny's personal history of making her own life choices—including where she lived and worked, who she spent time with, and what she did in her spare time—her guardians were given the power by a court "to make decisions regarding visitation of individuals with [Jenny], [and her] support, care, health, safety, habilitation, education, therapeutic treatment and . . . residence" (*Ross and Ross v. Hatch*, 2012, p. 3).

At her 2013 trial, Jenny presented evidence and testimony showing that she used SDM to make her own decisions and direct her life and, therefore, did not need a guardian to make decisions for her. Jenny demonstrated that she had friends and supporters whom she relied upon when needed, and these people helped her understand, make, and communicate life choices that reflected her values, interests, and preferences. Experts testifying at trial opined that Jenny's use of SDM enhanced her independence and quality of life, and it was consistent with research, best practices, and existing law. Jenny also argued that Virginia state law required that guardianship should only be used as a last resort option, and if there were alternatives that could help her make her own decisions, such as SDM, guardianship was not appropriate (Jenny Hatch Justice Project [JHJP], n.d.-c).

After 6 days of trial and argument, the court ordered Jenny into a 1-year limited guardianship, which expired in August of 2014. The court appointed the people Jenny wanted to live with as her temporary guardians and authorized them to make medical and safety decisions on her behalf, with Jenny retaining all of her other rights. In a groundbreaking decision, the court then ordered the guardians to partner with Jenny so that she might fully transition "to the support[ed] decision making model" in 1 year's time. The court ordered Jenny's temporary guardians, when they were making health and safety decisions during the 1-year transition period, to

> [A]ssist [Jenny] in making and implementing decisions we have termed "supported decision making." As stated by an expert witness of [Jenny] . . . "A guardian's job, actually, even when appointed, is to use what's called 'substituted judgment': that is to make the judgement that the individual would make if he or she was able to express that judgment rather than say the best interest or what the guardian thinks would be right." (*Ross and Ross v. Hatch*, 2013, p. 5)

With that court order, and after a long and lonely year in guardianship—during which Jenny was not allowed to live in her home, go to her job, attend her church, or see her friends when she wanted (Hatch, 2015, n.d.; Hatch et al., 2015)—Jenny became the first person in the United States to defeat, at trial, a petition for permanent, plenary guardianship because she uses SDM to make her own decisions (Blanck & Martinis, 2015).

After the trial, Jenny moved back to her home, returned to her job, and was the subject of national and international news highlighting "an individual's right to choose how to live and the government's progress in providing the help needed to integrate even those with the most profound needs into the community" (JHJP, n.d.-b; Vargas, 2013). Since then, Jenny has been living and working where and how she wants, using the SDM resources and skills that she developed and practiced throughout her life (e.g., Vargas, 2019).

With her court victory, Jenny was hailed as the "rock that starts the avalanche" of SDM (Vargas, 2013). Shortly after winning back her rights, Jenny became the inspiration for and face of the JHJP, the first organization created specifically to advance knowledge and use of SDM (JHJP, n.d.-a). Jenny's partners in the JHJP thereafter received federal grant funding, after a competitive bidding process, to create the National Resource Center for Supported Decision-Making, which conducts and sponsors research, policy, education, and advocacy activities designed to increase access to and recognition of SDM across the United States.

Since 2013, Jenny and her partners have provided information, education, and technical assistance on SDM to policymakers, legislators, attorneys, and judges across the United States, including in every state that has passed a law recognizing SDM; made hundreds of in-person and virtual presentations on SDM, reaching thousands of people with disabilities, families, and supporters, and professionals; and have written, co-written, and published scores of articles and books on SDM in journals and the trade press (e.g., National Resource Center for Supported Decision-Making, n.d.).

Research, education, advocacy, and scholarship after the *Hatch* case by Jenny and others show how SDM is positively associated with self-determination (e.g., Blanck & Martinis, 2015; Martinis & Blanck, 2019; Shogren et al., 2015), which is further related to improved quality of life for people with intellectual and developmental disabilities (e.g., Raley et al., 2020; Wehmeyer & Schwartz, 1997). For these reasons, among others, public and private agencies such as the U.S. Department of Health and Human Services, Administration for Community Living (2017), the American Bar Association (2016), the National Guardianship Association (2017), and the National Council on Disability (2018, 2019) have advocated for the increased use of SDM as an alternative to overbroad or undue guardianship and as a means of increasing self-determination for people who are in guardianship.

For this study, we examined three research questions:

> **Research Question 1:** To what extent do state guardianship laws mandate that people not be ordered into guardianship when they are able to make their own decisions using SDM or other alternatives?
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> **Research Question 2:** To what extent do state guardianship laws mandate that when guardianship is ordered, it is limited in time and scope as appropriate to maximize people's legal right to make decisions using SDM and other alternatives?
>
> **Research Question 3:** To what extent do state guardianship laws mandate that when guardianship is ordered, the orders provide people opportunities and authority to make their own decisions to the maximum extent possible using SDM or other alternatives?

Method

To address these research questions, based on our prior writings and reviews, we developed a priori and then applied the following six criteria to guide our systematic review of the state and District of Columbia laws (e.g., Blanck & Martinis, 2015; Shogren et al., 2018):

1. Does the law specifically mention and/or recognize SDM as an alternative to guardianship?
2. Does the law require the state court to consider less restrictive alternatives to guardianship before imposing a guardianship?
3. Does the law require the state court to impose the least restrictive form of guardianship when ordering a person into guardianship?
4. Does the law require the state court, when ordering a person into guardianship, to specify the life areas where the person loses or is restricted in the right to make decisions, and to ensure that the person retains all rights not specifically identified as lost or restricted?
5. Does the law recognize the right of people under guardianship to meaningfully participate in decisions that affect their lives?
6. Does the law require to consider and/or follow the will, preferences, and interests when making decisions of the person under guardianship?

We conducted three separate reviews in our analysis of the state guardianship laws to determine whether, and the extent to which, they met the above six criteria. One review, conducted by the third author, was undertaken initially to identify the guardianship laws of the 50 states and District of Columbia post-2013 after the *Hatch* case. Thereafter, a review and analysis was conducted state-by-state by the second author. This review confirmed that the initial review correctly identified each state's guardianship laws. The second author then analyzed the 51 guardianship laws to determine whether they satisfied the six criteria listed above, a total of 306 dichotomous decisions. Last, the first author analyzed the 51 guardianship laws, independently making the 306 dichotomous decisions needed to determine whether those laws satisfy the six criteria. The results of the independent reviews established that there was interrater agreement on the state laws that satisfied the six criteria, establishing that our process yielded usable results, which are presented below.

Simple statistics were then used to calculate the percentage of states with laws satisfying each criterion. However, the present analysis does not subjectively assess each state's guardianship laws to determine those that are the most consistent with the findings and principles set forth in *Hatch.* Instead, our more limited initial review is intended to begin systematic identification for subsequent and more detailed research, policy, education, and advocacy efforts.

Results

As of this writing, a bit more than one in five (22%, 11) of the 51 U.S. jurisdictions had laws that expressly mention or recognize SDM as an alternative to guardianship. However, most jurisdictions (84%, 41) had laws requiring courts to consider less restrictive alternatives before imposing a guardianship. Still a majority, but fewer jurisdictions (61%, 31) had laws requiring courts to impose the least restrictive form of guardianship.

Almost half of the jurisdictions (45%, 22) had laws requiring courts to specify the life areas where people under guardianship were to lose their rights, and to ensure that they retained all other rights. Importantly, most jurisdictions (86%, 44) had laws that recognize the right of people under guardianship to meaningfully participate in decisions about their lives. About half of the jurisdictions (47%, 24) had laws requiring guardians to consider and/or follow the person's will, preferences, and interests when making decisions about their lives.

Discussion

While each of the 11 state laws that, as of this writing, expressly recognize SDM has similar features, none precisely mirrors the others. In general, these laws identify SDM as an alternative to guardianship by which people may receive assistance in understanding, making, and communicating life choices. For example, the District of Columbia's law defines SDM as follows:

> [A] process of supporting and accommodating an adult with a disability in order to: (A) Assist the adult with a disability in understanding the options, responsibilities, and consequences of life decisions; and (B) Enable the adult with a disability to make life decisions, without impeding the self-determination of the adult with a disability or making decisions for the adult with a disability. (D.C. Code § 7-2131(11))

Similarly, Maine's law defines SDM as assistance from persons of an individual's choosing to understand "the nature and consequences" of personal and financial decisions to enable the person to make decisions that are consistent with his or her wishes and preferences, and in communicating those decisions (Maine Rev. Stat. Tit, 2019).

Not surprisingly, jurisdictions with laws recognizing SDM are more likely to satisfy the remaining five criteria we employed in our review. Thus, seven of the 11 jurisdictions with SDM laws also satisfied all six criteria and three satisfied all but one. Thus, those jurisdictions recognizing SDM are more likely to respect in law people's rights, will, and preferences, and to empower them under law to make decisions to the maximum of their capabilities, even when they are ordered into guardianship.

However, one key difference among the 11 state laws expressly recognizing SDM is in how, and under what circumstances, they determine that SDM may be implemented and recognized by the court and, thereby, society. Some state laws, such as in Texas, Delaware, and the District of Columbia, require that people enter into a written Supported Decision-Making Agreement (SDMA) as a formal, legally authorized SDM arrangement. These statutes provide a model SDMA agreement and provide that people must use that form, or one substantially similar, for their SDM relationship to be legally recognized. Typically, the model SDMAs specify the life areas, such as health, financial, or living decision areas, in which the person desires support and the individuals who will provide that support. Other states, such as Missouri and Nevada, recognize the authority of people to enter SDMAs but do not require the use of a specific form or model for recognition.

In our review of guardianship laws, it was apparent that if, in fact, SDM is recognized and used as an alternative to guardianship, then those state laws that require courts to consider and impose less restrictive alternatives to, and forms of, guardianship by definition encourage the use of the SDM. Our findings are in accord with this reasoning, and the majority of states (61%) encourage the use of SDM prior to the state court imposing guardianship. The existence of such laws thus indicates that state legislators, policymakers, and other stakeholders endorse independence and self-determination in decision-making to the maximum extent permitted by law. This conclusion is consistent with prior research and writing on the topic; that is, when people with disabilities are empowered to make decisions and direct their lives, they are more likely to be or become independent, employed, and actively engaged in planning and implementing their supports, services, and activities (Eyraud & Taran, this issue; Gooding et al., this issue; McDougall et al., 2010; Powers et al., 2012; Raley et al., 2020; Shogren et al., 2015; Wehmeyer & Schwartz, 1997).

Tennessee provides one example of how state laws may both inform and be informed by SDM. For many years, Tennessee's guardianship law required its courts to consider and impose the "least restrictive alternatives" (Tennessee Code 34-1-127, 2020). However, after education and advocacy by Tennessee stakeholders about SDM (Pearcy, 2017), the state amended its guardianship law to further define "least restrictive alternatives" as means that preserve the decision-making rights in the particular circumstances for the person with a disability (Tennessee Code 34-1-101, 2020). Accordingly, without reference to the term *supported decision-making*, Tennessee law requires its courts to consider and order, when appropriate, that people use SDM and other less restrictive alternatives to guardianship.

Furthermore, the body of study and practice in SDM suggests that state guardianship laws and courts should not merely require or encourage the use of SDM and other less restrictive alternatives to guardianship. Rather, if guardianship is ordered, state laws should mandate and courts should impose the least restrictive form possible (American Bar Association, 2016) and order that SDM be used during the guardianship to empower the person to make as many decisions as possible (National Guardianship Association, 2017). Our review confirmed that almost half of state laws (45%) require their state courts to specify the life areas in which people under guardianship lose their rights and to ensure that they retain all other rights. Moreover, when people are ordered into guardianship, the majority of state laws (86%) require that state court guardianship orders recognize an individual's right to participate in decisions about their lives. A lower proportion (47%) expressly require guardians to consider and/or follow the person's preferences when making decisions.

The previously discussed *Hatch* case provides one prominent example of a state court order that meets the above three criteria. In *Hatch*, as mentioned, the Virginia court ordered Jenny into a 1-year limited guardianship, supported by the people with whom she wanted to live. The court specified that Jenny's temporary guardians would have decision-making powers only over her health and safety decisions, with Jenny retaining the right to make all other decisions. The *Hatch* court further ordered Jenny's temporary guardians to assist Jenny in using SDM to make her own decisions rather than simply making decisions in her place (*Ross and Ross v. Hatch*, 2013). Guardianships orders such as that in *Hatch* encourage people under guardianship to make decisions, direct their lives, and exercise self-determination using SDM or other means. If these individuals demonstrate such skills, they, or someone on their behalf, may petition the court to terminate their guardianship in whole or in part (e.g., Cassidy, 2015).

In addition to stimulating systemic reform of state laws as reviewed above, individual and grassroots activity around SDM since the *Hatch* case has been associated with increasing numbers of individuals following Jenny's model and seeking to have their guardianships terminated because they use SDM (e.g., Commonwealth Council on Developmental Disabilities, 2017; Emery, 2018; *In re: Ryan Herbert King*, 2016; National Resource Center for Supported Decision-Making, n.d.). State laws empowering people under guardianship to make decisions, and to have those decisions honored under law, may be self-reinforcing, leading individuals to increasingly exercise self-determination and have their rights recognized and/or reinstated.

Nevertheless, and despite the existence of laws, policies, and projects designed to increase knowledge and use of SDM as an alternative to guardianship, the use of guardianship is increasing (e.g., National Council on Disability, 2018, 2019). The estimated number of adults under guardianship in the United States has tripled since 1995, from 500,000 to 1,500,000, and 1,300,000 of these individuals are persons with disabilities (National Council on Disability, 2018; Reynolds, 2002; Schmidt, 1995; Uekert & Van Duizend, 2011). Moreover, even as the majority of state guardianship laws require their courts to impose the least restrictive alternatives to, and forms of, guardianship, *plenary* or *full* guardianship, in which the court gives the guardian the power to make *all* decisions for the person, remains court imposed far more often than other types of less restrictive guardianship (National Council on Disability, 2018). One study found that over 90% of the guardianships it sampled were plenary (Teaster et al., 2007). Researchers of another study indicated that the majority (87%) of the guardianships reviewed across 10 states authorized the guardian to make all decisions in place of the person under guardianship (Lisi et al., 1994). Other researchers have found in accord that although "limited" guardianships were ordered in almost half of the cases reviewed (46%), in effect there was little to no difference between the power given to limited and full guardians (Millar & Renzaglia, 2002).

These studies suggest a continued lack of knowledge or adherence to less restrictive alternatives to guardianship such as SDM may be associated with the failure to apply state guardianship laws in practice. If this were the case in practice, it would serve as a primary barrier to the adoption and use of SDM going forward. Thus, state laws requiring courts to consider SDM or other less restrictive alternatives to guardianship may alone not be sufficient to guarantee that people, professionals, and courts will consider and as appropriate employ such alternatives.

Accordingly, there is a need for further research, policy making, and educational efforts regarding the recognition, practice, and efficacy of SDM. While we and others are trying to fill these gaps (e.g., Martinis & Blanck, 2019), further efforts are needed to examine how SDM operates in practice and to determine the extent to which SDM achieves its goal of self-determination (Kohn et al., 2013, p. 1157).

Our preliminary findings, as well as research and scholarship by others, suggest that to ensure people are afforded the rights accorded by state guardianship laws that recognize or encourage SDM and other alternatives to guardianship, policymakers, professionals, and courts may need further education and information about such options. To this point, it is significant that almost three quarters (72%, eight of 11) of the jurisdictions that have passed laws recognizing SDM previously convened Working Interdisciplinary Networks of Guardianship Stakeholders ("WINGS") workgroups. WINGS groups, funded by the U.S. Department of Health and Human Services, the Administration on Community Living, and the American Bar Association, are partnerships between state court systems and stakeholders (American Bar Association, n.d.). Through education, advocacy, and collective effort, WINGS groups seek to change guardianship law, policy, and practice to more fully recognize people's rights and opportunities to make their own decisions and direct their lives. Thus, and in the future, the efforts of state WINGS and other such groups may be associated with passage by state legislatures of SDM and related laws to empower people to make decisions to the maximum of their capabilities.

In another successful effort to promote recognition of SDM in law and policy, the Missouri Developmental Disabilities Commission (MDDC), a state agency charged with engaging in policy and education activities with and for the benefit of people with intellectual and developmental disabilities, issued a position statement on self-determination and guardianship that it shared with state legislators and policymakers. This policy statement noted that "[p] eople should only be ordered or kept under guardianship when less restrictive alternatives have failed to help them direct their own lives. Guardianship, when absolutely necessary, should restrict the ward's rights to the minimum extent possible" (Missouri Developmental Disabilities Council and Something Else Solutions, LLC, n.d.). Through the statement, the MDDC urged legislators and policymakers to support legislation recognizing SDM as an alternative to guardianship. Thereafter, the Missouri legislature passed legislation recognizing SDM as an alternative to guardianship and requiring state courts to consider whether people do, or could, use SDM prior to ordering them into guardianship (Missouri Rev. Stat, 2019).

Building upon its policy statement and law, the MDDC created educational materials for people with disabilities, families, and professionals to help them learn about and implement SDM in such life areas as education, employment, and independent living (Missouri Developmental Disabilities Council and Something Else Solutions, LLC, n.d.). Similar efforts in other states may lead to law reform and increased acknowledgment and use of SDM and other less restrictive alternatives to guardianship when appropriate (Pearcy, 2017).

Public and private entities together may also develop and implement SDM pilot projects to empower people to use SDM and document best practices leading to increased independence, self-determination, and quality of life. The Developmental Disabilities Planning Councils of New York and Virginia, which are federally funded to provide policy and education activities to and for the benefit of people with intellectual and developmental disabilities, have funded the Supported Decision-Making New York and the Virginia Supported Decision-Making Pilot Project. These projects empower people with intellectual and developmental disabilities to create and implement SDM relationships and plans; however, there are differences between the two programs. For example, the New York program requires participants to create SDMAs in a specified form and format (Supported Decision-Making New York, n.d.), whereas the Virginia project empowers participants to create plans in any form they choose (The Arc of Northern Virginia, n.d.). Additional pilot projects are needed to identify practical and effective ways to empower people to develop and implement SDM plans that are consistent with their individual abilities, strengths, and needs (Kohn et al., 2013; Martinis & Blanck, 2019).

Future Research

Qualitative and quantitative research, including randomized control trials, are needed to better understand and document the association between SDM and individual self-determination and quality of life, as well as other factors associated with the efficacy of SDM (e.g., Blanck & Martinis, 2015). Collaborative research projects underway at the University of Kansas and the Burton Blatt Institute at Syracuse University involve the collection of data to document the elements of successful SDM relationships and their association with improved quality of life for people with intellectual and developmental disabilities (Shogren et al., 2018) and for persons with serious and persistent mental illness (Jeste et al., 2018; Schnieders, 2019).

Further research is needed to document SDM best practices and determine the extent to which certain SDM methodologies are more effective than others. As found in our review, some state laws recognizing SDM require that SDM relationships be memorialized in a form agreement while others do not. Research should be performed to determine whether the mandatory use of SDM form agreements actually is related to improved outcomes, such as enhanced recognition of SDM by professionals in the health care, financial, and legal professions, as well as in society at large.

Increasing SDM research and practice is important in its own right because, as mentioned, SDM is associated with self-determination (Blanck & Martinis, 2015). People exercise self-determination when they make life choices and act as *causal agents* in their lives (e.g., Blanck, this issue; Wehmeyer et al., 2000). Researchers have found that people with disabilities who exercise greater self-determination experience enhanced quality of life, including increased independence, employment, community integration, and safety (Khemka et al., 2005; McDougall et al., 2010; Powers et al., 2012; Shogren et al., 2015; Wehmeyer & Schwartz, 1997). Conversely, people denied or limited in self-determination through guardianship often experience negative life outcomes, such as "low self-esteem, passivity, and feelings of inadequacy and incompetency," thereby decreasing their ability to function (Winick, 1995, p. 21) and "significant negative impact[s] on their physical and mental health, longevity, ability to function, and reports of subjective well-being" (Wright, 2010, p. 354).

Implications

Given the importance of self-determination to individual growth and quality of life, SDM concepts and practice should be introduced early in the educational process. Jameson and colleagues (2015) asked parents and guardians to identify who first suggested that they seek guardianship. The most frequent response was "school personnel" (p. 7). The National Council on Disability (2019) has likewise documented a so-called "school to guardianship pipeline," resulting in more than half (58%) of young adults with intellectual and developmental disabilities having guardians (p. 29).

The high rate of guardianship among young adults with disabilities once again suggests that laws on the books requiring the use of alternatives to guardianship like SDM may not be enough to ensure that such approaches are used. The school to guardianship pipeline suggests that the same trend is true of laws requiring schools to provide students receiving special education with supports and services to prepare them for independent living (Blanck, 2020; Individuals with Disabilities Education Improvement Act [IDEA], 20 U.S.C. §1400(d)(1)(A), 2004) and transition services to ambitiously facilitate the child's movement from school to postschool activities, including independent living and the acquisition of daily living skills (Blanck, 2020; IDEA, 20 U.S.C. § 1401(34), 2004).

Accordingly, educational policy and practice initiatives are needed to (a) ensure that school personnel identify and provide decision-making supports and services to students with disabilities to maximize independence in life and (b) avoid overbroad and undue guardianships (Martinis, 2014). The District of Columbia Public Schools's (DCPS) policy on SDM, the first in the United States, demonstrates the importance of such efforts. DCPS teaches students as young as 3 years of age and their parents to use SDM and build networks of support to ensure that they are familiar with SDM and use it in day-to-day activities (Downing-Hosten, 2015, p. 6).

Beginning in ninth grade, DCPS students engage in formal SDM processes and are encouraged to discuss their decisions with their parents and others they trust so they may make decisions that meet their needs (DCPS, Office of Specialized Instruction, n.d.-b, p. 1). When students reach the age of 18, DCPS provides them an opportunity to execute SDM agreements for their educational services and supports (DCPS, Office of Specialized Instruction, n.d.-a). Using DCPS's SDM Form, students may identify the people they want to support them in their education, areas where they want support, and the authority supporters have, with the student having final decision-making authority (DCPS, Office of Specialized Instruction, n.d.-a).

Education and policy initiatives like DCPS's may help to reduce or reverse the school to guardianship pipeline. Because parents are involved in their children's SDM process from the beginning, they may come to understand that their sons and daughters can use SDM to make their own decisions. As a result, parents may be less likely to view guardianship as a necessary or inevitable step. Pilot projects and research should be undertaken to identify practices that effectively prepare students for postschool life, living and working independently, and avoiding unnecessary guardianship.

Conclusion

The avalanche of SDM begun by Jenny Hatch shows little signs of slowing in the United States and other countries (Blanck & Flynn, 2017; Shogren et al., 2018). Based on our initial review and existing research, the question is not *whether* guardianship laws, policies, and practices increasingly will require and encourage the consideration and use of SDM but rather *what* are the best ways to do so in furtherance of individual rights. Future research, education, policy, and advocacy activities are needed to identify ways to empower people to use SDM to increase their opportunities to live independently, build and exercise self-determination, and "reap the benefits from increased life control and independence" (Blanck & Martinis, 2015, p. 31).

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