

Alternatives to Guardianship & Guardianship Options, Information & Resources

Power of Attorney (POA)

A POA is a legal document that allows one person (called the principal) to give another person (called the agent or attorney-in-fact) authority to act on their behalf. Types of POAs include:



- General POA: Gives broad powers to the agent to handle financial, legal, and personal affairs.
- Limited or Special POA: Grants authority to the agent for specific tasks or for a limited time.
- Durable POA: Remains in effect even if the principal becomes incapacitated. Must include specific language stating that it is a “durable” POA.
- Medical or Healthcare POA: Authorizes the agent to make medical decisions if the principal is unable to do so.

Surrogate Decision Maker and Advanced Directives

An advanced directive is a legal tool that allows a person to state their health care preferences and/or appoint someone to make decisions on their behalf in the event they lose capacity to do so themselves.

- Advanced directives describe a person’s preferences about receiving life-sustaining treatment, organ donation, and pain relief.

A surrogate decision maker, also called a surrogate, is a person not formally appointed as a guardian or agent, but is authorized to make health care decisions for someone who has lost capacity and does not have an advanced directive or guardian in place.

Supported Decision Making

The NM Supported Decision-Making Act was passed in Senate Bill 535 in 2025.

Implementation of the Act is being led by the Developmental Disabilities Council (DDC).

- A Supported decision-maker, also called a supporter, is a person chosen by an individual with IDD to help them make decisions, while still allowing the individual to retain full legal rights and decision-making authority.



Representative Payee (Rep Payee)

A representative payee or “rep payee” is a person or organization appointed by the Social Security Administration (SSA) to manage Social Security or Supplemental Security Income (SSI) benefits for someone who cannot manage their own finances.

- A rep payee is responsible for making sure the beneficiary's basic needs are met using their SSA funds, which includes paying for food, clothing, and shelter, paying for medical care and personal items, saving any leftover funds in an account for the beneficiary, keeping records of how money is spent, and reporting changes in the beneficiary’s situation to the SSA.
- A rep payee only controls SSA benefits, not all financial matters.

Guardianship

Guardians are individuals, companies or organizations appointed by a judge to make decisions for another adult. A “protected person” is a person a court has determined to be incapacitated and in need of a guardian. People and/or companies can serve as a guardian for a person.

- Individual Guardian: Is a person, such as a family member, friend, or trusted individual, appointed by the court to make decisions for someone who can’t make them independently.
- Corporate Guardian: Is a professional organization or agency appointed by the court to act as a guardian for an individual who is incapacitated and has no suitable family or friends able to serve as guardian.

Guardianship scope will vary depending on the needs of the protected person.

- Limited Guardian: The protected person retains all power not specifically given to the limited guardian.
- Full Guardian (also called Plenary Guardian): Responsible for making all personal and healthcare decisions for the protected person, but must involve the protected person in decisions as much as possible.



All types of guardianship must be established by a District Court.

- Pursue the guardianship process independently by filing a petition with your local District Court.
- More information on how to begin the guardianship process is available at: [Adult Guardianship & Conservatorship Process - Adult Guardianship & Conservatorship](#)
- For assistance with the guardianship process, contact the New Mexico Developmental Disabilities Council (DDC) Office of Guardianship (OOG) at: [Office of Guardianship | New Mexico Developmental Disabilities Planning Council](#)

Additional Information

- Information and resources on POAs, supported decision making, and more are available on the DDC Office of Guardianship website: [Office of Guardianship | New Mexico Developmental Disabilities Planning Council](#)
- New Mexico Courts Adult Guardianship and Conservatorship website further details guardianship and how to become someone’s guardian: [Home - Adult Guardianship & Conservatorship](#)
- To file a grievance or complaint against a guardian, complete the New Mexico Courts grievance form, available at: [Grievance Process - Adult Guardianship & Conservatorship](#)
- Adult Guardianship Bill or Rights: [Bill of Rights for Adults Who Have a Guardian - Adult Guardianship & Conservatorship](#)
- District Courts oversees guardianship matters. There are 13 District Courts located across the state. To find your local District Court, visit: [Courts by District - New Mexico Courts](#)
- Tribal Courts’ guardianship proceedings will vary. Contact tribal courts directly to obtain more information on their guardianship processes.

