

THE REGULATIONS IMPLEMENTING OUR SDMA LAW ARE FINALLY HERE, AND TO KEEP YOU READING, SOME INSPIRING WORDS FROM THE OLYMPICS

Although we've been celebrating New York's groundbreaking SDMA law for two years (Good News 7/29/2022), as a technical matter, it does not become fully effective until 90 days after adoption of implementing regulations promulgated by OPWDD. OPWDD was given a year to write those regulations and did so, but there was much bureaucracy to pass through before they could be released for public comment, which finally happened last week (for the full text of the regulations, click [here](#)).

Under state law, anyone in the public can comment, favorably, unfavorably or both, for a 60-day period ending on September 29, 2024. If comments are minor, and/or don't raise any new issues or require rethinking, the regulations will then be officially adopted. If not, there will be additional delay while OPWDD determines whether changes need to be made. If you are interested, comments can be submitted to

Regulatory Affairs Unit, Office for People With Developmental Disabilities
44 Holland Avenue, Albany, NY 12229; (518) 474-7700; email: rau.unit@opwdd.ny.gov

So what *are* the regulations? (probably more than you want or need to know, but just in case...)

The regulations, totaling 40 pages, are an addition to the New York Code of Rules and Regulations (14 NYCRR Part 634) as well as amendments to already existing Parts 624, 629, 633, 635, 636 and 679. The "new" Part, 634, (comprising the first 9 pages) basically fleshes out the language of the statute and directly applies it to OPWDD and its providers. The amendments, which are mostly technical and complex, involve the impact of SDM and SDMA on already existing OPWDD policies including notice in various settings, and the Decision-Maker's right to choose or consent to various services provided by OPWDD.

What do the regulations mean for our community?

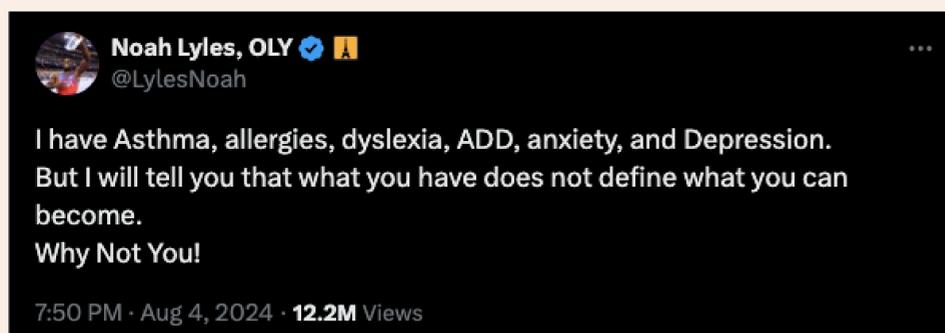
Overall, like the statutory language itself, they reaffirm how SDM and SDMA, both formal and informal, can enable people with I/DD to make their own decisions with the support of trusted persons in their lives. "Formal" SDMA, are to be made through a facilitation process that is described in Part 634.9(b) tracking the process we have developed at SDMNY.

Here are a few of the most important take-aways. The regulations:

- specifically recognize, and grant legal authority to SDMA made through SDMNY facilitation and signed prior to the effective date of the statute, as long as the SDMA was also signed by the facilitator, which was our practice. (14 NYCRR 634.4(c)(1));
- provide that if a third party refuses to accept the decision or consent of a person with a recognized SDMA, made in accordance with their SDMA, the Decision-Maker can enforce the decision "in law or equity in the same manner as any other." (14 NYCRR 634.10);
- explicitly permit DSAs and other employees of agencies providing services to the Decision-Maker to be supporters, unless prohibited by the agency's own rules. (14 NYCRR 634.5(f));
- provide that immigration status or lack of citizenship are no bar to acting as supporters (14 NYCRR 634.5(h); and
- impose a number of specific obligations on Care Coordination Organizations (CCOs) with regard to educating enrollees and families about SDM and SDMA, making referrals for SDMA facilitation where appropriate, record keeping where there is an SDMA, inclusion of the SDMA in, educating and informing members of program planning teams about the inclusion SDM and SDMA, etc. (14 NYCRR 34.10)

We apologize for the length and complexity of this week's Good News (although it is both news, and very good!) so to bring us back to the importance of our work and why we do it, we share an inspiring post from the Olympics, which many of us have watched over these past two weeks—even as we look forward to the Paralympics that begin August 28. (for the full Paralympics schedule click [here](#))

After a breathtakingly close finish, the winner of the men's 100 meter race, acclaimed runner Noah Lyles, posted this tweet



Noah Lyles (photo by Christian Petersen/Getty Images)

We couldn't say it any better: For anyone with a disability,

WHAT YOU HAVE DOES NOT DEFINE WHAT YOU CAN BECOME!