



# "LET'S HEAR FROM THE PERSON WITH DISABILITIES"

Andrew Hamm, EJA Legal Services Fellow, Summer 2020

By Mike Putnam, M.Ed., Ph.D.

"We're 20 percent of America, and we're still invisible," wrote disability rights activists Judy Huemann and John Wodatch in the New York Times. Disabled people are the largest minority group in the U.S., but you would never know it.

Nevertheless, Andrew Hamm knows. During his summer 2020 EJA fellowship at Quality Trust for Individuals with Disabilities in Washington, D.C., Mr. Hamm shared an apartment with his older brother who has Down syndrome. "I definitely want public service and disability to be a large component of my career," he said, "that's why I was so interested in the EJA internship."

For him, the best part of the fellowship was "conducting intake." Most initial calls came from family members, but the next step on his mind was always: "Let's hear from the person with disabilities; what do they want? That's what it's all about."

It can be a "real risk," Mr. Hamm said, "to take a paternalistic attitude towards someone with a disability and think you know what's best for them."

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## Intern bio:

- **Name:** Andrew Hamm
- **Law School:** American University Washington College of Law
- **Organization:** Quality Trust for Individuals with Disabilities

An example of this came up in a community meeting via video with the D.C. Department of Disability Services (DDS). According to Mr. Hamm, early in the pandemic, as the city was transitioning towards Phase 2, staff from a group home in the District informed DDS that: “We’ve decided that we’re going to stay in quarantine, even in Phase 2.”

While this “may be well-meaning,” Mr. Hamm said, “it is completely ableist. In fact, it’s the mayor who has the power to say who can come and go. This amounts to a well-meaning restriction on people’s liberties.”

## **Guardianship vs. Supportive Decision Making**

The EJA internship helped Mr. Hamm learn about, and, in turn, educate families about options for the rights and independence for disabled people. Guardianship, for example, is probably the “most well-known” legal option, but according to Mr. Hamm, it’s “drastic.” If a person is deemed incapacitated by the court, “guardianship places all legal rights of the disabled person with the guardian.”

A less extreme legal device known as Supportive Decision Making presents a better alternative. According to Mr. Hamm, it “allows individuals to authorize supporters to assist them in making important decisions (medical, financial, etc.). But crucially, and unlike guardianship, legal rights remain in the individual.” This is appropriate for disabled people because it’s more akin to what we all do. “After all,” Mr. Hamm said, “that’s how most of us make decisions, with the advice and guidance of a few key supporters.”

This “person-centered” approach, as Mr. Hamm called it, requires us to elevate the voice and agency of people with disabilities. We should always “presume competence,” said Dr. Jen Newton, Assistant professor of special education at Ohio University, “before making ableist assumptions of incompetence.”

Mr. Hamm was able to put this person-centered approach into practice when he and his supervisor, Jessica A. Bronson, Staff Attorney at Quality Trust,

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spoke with a mother and her 18 year old disabled daughter. They wanted to discuss their legal options as the daughter was now an adult.

As they all spoke, the two advocates realized that the mother was doing most of the talking. “So we asked the mom to leave the room,” Mr. Hamm said, “so we could talk directly with the daughter. It was difficult to communicate with her because she had an intellectual disability, but I was happy to make that effort because we needed to hear her side of the story.

“That was a real success story because listening to the daughter’s story helped us present that family with some options to Guardianship that would really help them.”

Mr. Hamm knew he wanted to take a step down this road when he entered law school, but, he says, the “EJA fellowship definitely confirmed my interest in disability law.”