

Getting Support with Adult Decisions: Guardianship

This fact sheet has general information. It is not intended as legal advice. Only an attorney can give you legal advice to help you with a problem, or answer a question.

What is a Guardianship?

Guardianship is a court process in which a judge decides if an adult can take care of their health, food, clothing, shelter, financial, or personal needs. If not, a responsible person may be appointed to make decisions for them. The court calls this person a “guardian.” The court calls you the “ward.”

Types of Guardianship

Yes. There are two kinds of guardianship. In a **plenary**, or **full guardianship**, a judge gives the legal right to make almost all choices or decisions about your life to someone else, almost like a parent. The second kind, **limited guardianship**, allows you to keep some rights so you can make some decisions about your life. A limited guardian only has the powers specifically given to them by a judge. Another possibility is a **conservatorship**. A conservatorship is kind of like a guardianship in which the conservator only has the power to make some or all financial decisions for you.

Who can be a Guardian?

A guardian must be at least 18 years old. You can suggest someone you know, such as a family member or friend, but a judge decides who will be your guardian. Another option is to recommend the person you chose in your Advance Directive be selected as your guardian. In some cases, a pro-



fessional guardian may be appointed. A state agency, the Office of Public Guardian, may be appointed if no one else is available.

Deciding if you need a Guardian

A judge must decide if you’re able to take care of yourself; if you understand information well enough to make a choice about what you want or don’t want; and if you can tell someone about your decision. If you can do these things, the judge will decide you don’t need a guardian. Even if you can’t and the judge decides you need a guardian, they should only allow your guardian to do the things you’re not able to do on your own, even with help.

What can a Guardian do?

If a judge decides you need a guardian, they should explain what decisions your guardian can make. You’ll also get a copy of the judge’s order,

which lists the things your guardian can and can't do. The kinds of decisions your guardian can make may include choosing where you live, where you go to school, where you work, how you spend your money, and/or what treatment you get from a doctor, etc. Your guardian may also have some ability to tell you with whom you can spend time. Basically, your guardian is responsible for making sure you are healthy and safe.

At the same time, they need to ask what you would like whenever possible. They should give you the chance to make as many choices for yourself as possible. Unless specifically allowed by a judge, your guardian can't tell you who to marry or that you can't vote. Ultimately, they should make the choice or decision they believe you would make whenever possible.

Creating a Guardianship

Someone must tell a judge they think you need a guardian. The judge must have a hearing (or meeting) to decide if they agree. In most cases, you have to go to the hearing.

If you can't afford an attorney, the court's Guardianship Signature Program (utcourts.gov/howto/family/gc/signature/#objectives) may be able to help. If you don't have an attorney, the judge may give you one.

Before the hearing begins, the judge should explain the process and make sure you know what a guardianship could mean. The judge may ask for a report from a doctor or other professional who knows what you can and can't do well. They might also ask a trained volunteer from the court to report back after talking to you or others who know you well. The judge should ask what options, besides guardianship, you've tried and why they

will or won't work for you. When deciding what choices you can make for yourself, the judge must consider your abilities and limitations. You, your family, friends, teachers, doctors, and other supporters can tell the judge what you can do well and where you might need help, so they can make the best decision possible.

Your Rights

You have a right to a copy of the request for a guardianship and to know when and where the hearing will be. You also have a right to say you don't want or need a guardian. Additionally, you have a right to a copy of any report given to the judge. Finally, you have a right to ask a jury to decide if you need a guardian.

How will others know I have a guardian?

Your guardian will give them a copy of the judge's order.

What if I want to challenge my guardianship?

If you want to change your guardian or what they can do, you can call your attorney or send the court a simple letter to ask for a hearing.

When will my guardianship end?

Your guardianship ends when a judge says it's no longer needed, when your guardian resigns (quits), or when you die.

For even more information about the guardianship process and alternatives, you can visit utcourts.gov/howto/family/gc/.