

Guardianship



PROTECTING THE FUTURE OF YOUR FAMILY MEMBER WITH DEVELOPMENTAL DISABILITIES

WHY IS GUARDIANSHIP NECESSARY?

Parents of children with disabilities are the natural Guardians, as with any other child, until the child's eighteenth birthday. After that time, since the child has become an adult by law, it is necessary for parents to qualify as guardians in order to exercise parental supervision and provide guidance.

All families need to make legal and financial plans for the future. Because of their unique needs, parents of children with developmental disabilities must plan even more carefully. The planning must start sooner, last longer, and take more details into consideration.



WHO SHOULD SERVE AS A GUARDIAN?

Since guardianship need only be established once, a parent may want to designate him or herself as guardian individually or jointly with the consent of his or her spouse. It is important that one or more standby guardian(s) be appointed to ensure that someone will continue to support and advocate on behalf of your son or daughter in the event of your death or disability.

Anyone who is being considered as a guardian or standby guardian should have the individual's best interest at heart and understand the nature and degree of the person's disability. Additional factors that should be considered, especially when deciding on a standby guardian, include geographical distance and availability of the person to make visits and decisions.

THE ARC NEW YORK GUARDIANSHIP PROGRAM

When there are no family members or friends available to act as a guardian or standby guardian, a not-for-profit organization, such as The Arc New York, may act as a guardian of the person.

TYPES OF GUARDIANSHIP:

GUARDIANSHIP OF THE PERSON

The guardian of a person is appointed by the court to manage the personal affairs, such as medical treatment or residential placement of an individual with a developmental disability.

GUARDIANSHIP OF THE PROPERTY

The guardian of property, in conjunction with the court, is responsible for the management of any or all financial resources for the person with a developmental disability. The only exception is representative payee funds, such as Social Security, which may be managed by service providers.

LIMITED GUARDIANSHIP OF THE PROPERTY

The court can appoint a guardian for a limited purpose of managing the property of the individual with a developmental disability. In this case, the individual retains the right to spend his or her monthly wages as he or she sees fit.

PROCEDURES TO OBTAIN GUARDIANSHIP

The Surrogate Court handles all forms of guardianship for persons who have a developmental disability. The process begins with the filing of a document called the "petition for appointment of a guardian." The petition is submitted under Article 17-A of the Surrogate Court Procedure Act and can be done at any time, regardless of the age of a person with a disability. The application is usually brought before the Surrogate Court in the county where the person with a disability resides.

For assistance with this process, please call the Guardian Program Coordinator at 315-927-0088.

The Arc's Guardianship Program is available to provide information and guidance on guardianship procedures to professionals and families.

For additional information about the Guardian Program, please call the Coordinator at 315-927-0088.



ADVOCACY AND SERVICES FOR PEOPLE WITH DISABILITIES
245 GENESEE STREET
UTICA, NEW YORK 13501

THEARCOLC.ORG

REVISED 2019

OUR MISSION

Our mission is to enable persons with disabilities and their families to achieve their potential through self-determined goals in partnership with the Agency. We will provide leadership in our community to develop the necessary human and financial resources to fulfill this mission.

Future Planning



PROTECTING THE FUTURE OF YOUR FAMILY MEMBER WITH DEVELOPMENTAL DISABILITIES

WHY IS FUTURE PLANNING NECESSARY?

Parents of children with special needs are their natural guardians until the child's 18th birthday. At age 18 the child is now an adult by law. It then becomes necessary for parents to qualify as legal guardians in order to exercise parental supervision and to provide guidance.

All families need to make legal and financial plans for the future. Parents of people with developmental disabilities must plan even more carefully because of the person's unique needs. The planning must begin sooner, last longer and take more details into consideration.

Parents also need to consider how the needs of their son or daughter will be met if they are not around or able to make decisions on their behalf.



WHAT KIND OF PLANNING IS NEEDED?

Financial and medical needs are of particular importance. Although many options are available to provide for these needs, the abilities of the person and the resources of the family must be taken into consideration.

It is important to think about who can assist the person in making decisions he or she will face in the future because we live in a world of change.

Guardianship allows a parent to legally make decisions for his or her son or daughter once they reach the age of 18. The same process can be used to name someone who will act in this capacity in the event the parent dies or becomes disabled.

There are several different kinds of guardianship and other options as appropriate. Your individual circumstances will determine which is best for you. The Arc's Guardianship Coordinator will provide information and guidance to help you make an informed decision.

WHO SHOULD SERVE AS GUARDIAN?

Since guardianship need only be established once, a parent may want to designate him or herself as guardian. It is important that another family member, or other person, be appointed as standby guardian to ensure someone will continue to support and advocate on behalf of your son or daughter in the event of your death or disability.

Anyone who is being considered as a guardian or standby guardian should have the best interests of the person with the disability at heart, and understand the nature and degree of the person's disability. Factors that should be considered, especially when deciding on a standby guardian, include geographic distance and availability of the person to make visits and decisions.

When there are no family members or friends available to act as a guardian or standby guardian, a not-for-profit organization, such as The Arc New York, may act as guardian. This is called Corporate Guardianship.

WE CAN HELP!

The Arc, Oneida-Lewis Chapter has a Guardianship Coordinator assisting families with understanding their available options when considering the future of their family member.

The time needed to assist each family member and guide them through the process of looking ahead and safeguarding the future of their loved one will differ.

HOW MUCH DOES IT COST?

The Future Planning services of The Arc are not funded and rely on donations from the families who receive assistance. However, no one is denied these services because of the inability to pay. Grants are occasionally received to pay for specific populations

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For additional information about the Guardian Program, please call the Coordinator at 315-927-0088.



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