



Family Voices of Illinois
The Arc of Illinois
Family to Family Health Information Center

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Guardianship – Basic Information and Resources

1. Guardianship is a legal obligation to oversee the affairs of another that is undertaken only when no less restrictive means is appropriate. Because guardianship diminishes the individual rights of another adult, it should only be done with thoughtful consideration of possible alternatives and only as absolutely necessary.
2. Before age 18, parents are legally deemed to be responsible as natural guardians, looking out for the best interests of their minor children. They have a legal responsibility to take care of their children.
3. At age 18, individuals in Illinois are legally considered to be adults and assumed capable of taking on the responsibility for their own lives and important decisions. This is true regardless of whether or not they have a disability. This means, for example, that these young adults have responsibility for their medical care, schooling, work, finances, and relationships. They have the right to choose whether to accept any input from their parents or others.
4. Parents of adults with disabilities are not automatically given guardianship or allowed to participate in the decision-making process after age 18.
5. Parental guardianship responsibilities end legally at age 18 for all children, with or without special needs.
6. Court-appointed guardianship for minor children, with or without disabilities, also ends at age 18.
7. When, for whatever reason, the ability to understand and make responsible decisions is impaired, an alternative way to support the individual may need to be considered. There are a number of ways to provide this assistance, including Power of Attorney for personal, financial, healthcare, or educational decisions. This Power of Attorney provides authorization for the parent or other authorized adult to remain involved in that particular area of need.
8. Losing the ability to assist with health care decisions is frequently a concern for families considering these alternatives. The Illinois Short Term Power of Attorney for Healthcare form is available at http://gac.state.il.us/pdfs/POA_Health_Care_Sept_2011_Final.pdf.
9. The Illinois State Board of Education Delegation of Rights Form that provides authorization for the parent/caregiver to remain involved in educational decisions is available at http://www.isbe.net/spec-ed/pdfs/nc_deleg_34-57k.pdf.
10. If your adult child understands what they are signing, but is physically unable to sign his/her name, a signature stamp can be used or they can make their mark on the form, verified by a witness.
11. Guardianship is secured to protect an individual's well being and address vulnerability. Very helpful information on alternatives to guardianship as well as points to consider for making the decision are outlined in the *Guardianship Frequently Asked Questions* document available on the Illinois Guardianship and Advocacy Commission website at <http://gac.state.il.us/osg/osgfaq.html>.
12. Another helpful resource is available on the website for Equip for Equality. This *Frequently Asked Questions* document is available at <http://www.equipforequality.org/issues/self->

[determination-guardianship/faq/](#).

13. When it is determined that Guardianship is needed, a court proceeding is required. Some counties require the family to hire an attorney to file for guardianship. This varies by county. The family is responsible for all of the legal fees and any court fees. Families may be eligible for legal assistance services if they meet income eligibility guidelines. The Illinois Life Span Project database includes legal services providers. <http://www.illinoislifespan.org>
14. Guardianship comes with a number of ongoing responsibilities. This includes ensuring that your ward shares in decision-making to the fullest extent possible, promoting independence and self-reliance, being actively involved in your ward's daily life, and making decisions in his/her best interest. Additional reporting and court-related responsibilities may also be required, based on your location.
15. If you determine that guardianship is necessary for your family member, you may also want to consider having a co-guardian or stand-by guardian appointed by the court. This person will be able to "stand in" for you when you are unavailable to act as guardian (possibly due to illness or travel). It may be preferable to do this simultaneously with the initial guardianship petition.
16. Understand that the individual for whom guardianship is being sought may be required to appear in court and respond to the judge's interview as part of the guardianship proceedings.
17. The decision about guardianship or alternatives is a very important part of transition planning.
18. In case of medical or legal emergencies, lack of guardianship or power of attorney can become a major barrier to prompt care/attention.
19. If you have specific questions about guardianship or alternatives, please seek qualified legal advice.