



Raising Special Kids
Families Helping Families



Turning 18 – Legal Options

Mission Statement



- Raising Special Kids exists to improve the lives of children with the full range of disabilities, from birth to age 26, by providing support, training, information and individual assistance so families can become effective advocates for their children.

Supports and Services



Raising Special Kids
ARIZONA

- Healthcare Information
- Parent to Parent
- Special Education

Parent Training and Information Center for Special Education

Arizona's Parent Training and Information Center (PTI) provides special education training and assistance to families of children with disabilities from birth through high school. Every state has at least one center funded through the U.S. Department of Education under Part D of the Individuals with Disabilities Education Act (IDEA).

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Our Services

- We work hard to keep our services at no cost to families
Available in Spanish and other languages
Support families of diverse culture, structure and background

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Learning Objectives

- Some guardianship history
Definition of guardianship
Types of guardianship
Some practical information about the guardianship process
Alternatives to guardianship
Other things to consider upon reaching the age of majority

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Disclaimer



- We are not lawyers and can not provide any legal advice.
- Consult an attorney with any legal questions
- Federal and state laws are subject to change

Family Experience

- Many parents struggle with the gravity of these issues.
 - Balance between independence and protection
 - Concerns about continuity of care throughout their child's life span
- There are alternatives to guardianship that may be appropriate.
- Families make their own determination as to what is right for them.
- Difficult terminology

Historical Perspective

- Initially, primarily used to protect/control property
- Mid-late 1800's, advocacy for humane treatment of those with mental illness
- Mid 1900s, two pronged process
 - Commitment
 - Guardianship
- 1969 Uniform Probate Code required
 - Notice be given to person and family
 - Third-party investigation
- 1987 US House Committee on Aging

Guardianship Defined

A person who is appointed by a court to provide care and make decisions by informed consent for a person who lacks the ability to make responsible decisions, or has considerable mental issues, or is unable to communicate basic needs.

Deciding if Guardianship is Needed

- Is the person at risk of:
 - Being exploited by others
 - Making a decision that could put them in danger
- Are professionals indicating a concern for their capacity to make decisions?



What Are the Responsibilities of a Guardian?



- To seek services that are in the best interest of the person taking into consideration...
- How to develop the individual's maximum potential
 - The particular desires of the person (ward)

When Can I Petition for Guardianship?



- When the youth is 17 years, 6 months old
- If youth was a ward as a minor, that relationship is discontinued and ADULT guardianship must be established (if needed).
- If guardianship is awarded prior to the youth's 18th birthday, it will become effective that day.

Where do I get the Forms?

Obtain **Adult Guardianship Packet and Fee Deferral Form** from County Superior Court

- Online
- In person
 - Self-serve area or Law Library
 - Cost varies from County to County



Fee Deferral/Waiver

- Request paperwork to defer/waive fees at the courthouse
- If guardianship is awarded, the fees will be based on the ward's income



Are Guardians Liable for the Actions of Their Wards?

If a guardian has carried out his duties as assigned by the court order in the guardianship proceedings and has done his “best” to fulfill court obligations with informed consent, it is likely the guardian would not be liable for his ward’s actions.



Types of Guardianship

- Guardian Ad Litem
- Temporary Guardian
- Limited Guardianship
- Full Guardianship

Guardian Ad Litem



Appointed by the court for special protection; effective immediately

- Single action
- Specified time
- Limited purpose

Temporary Guardian

May be appointed by the court in the event of an emergency. This process requires representation by an attorney.



Full Guardianship

The guardian has responsibility for:

- Living Arrangements
- Education
- Social Activities
- Medical Care

Upon appointment of a guardian, generally the individual loses his or her privilege to obtain or retain a driver's license and to vote. However due to recent legislation individuals can retain their right to vote.

Limited Guardianship

The person filing for guardianship can request that the court limit the person's rights only in certain areas, for example

- Contracts
- Healthcare choices



Co-Guardianship

- Co-Guardians share joint guardianship responsibilities
- Requires same forms
 - Must include both petitioners' info wherever forms ask for guardian/petitioner info



Successor Guardianship

- Can be named as an alternate guardian in case the first appointed guardian is unable or unwilling to serve as guardian.
- If named in guardian's will, no additional petition for guardianship is required.



Required Training

- As of September 1, 2012
- Any person who is not a state-licensed fiduciary (or a financial institution)
- Must complete a training program before Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court.
- Training should be completed before the hearing
- Access and complete the training online at www.azcourts.gov/probate/Training.aspx

Change in Guardian

- A guardian may be changed any time it is shown that it is in the best interest of the ward.
- A change in guardian requires a petition filed in court.



Termination of Guardianship



- Determination that the ward no longer needs a guardian
- Resignation of the guardian
- Determination that the guardian has become unable to serve
- Upon the death of the guardian or the ward

No Relatives Available

- When no friend or family member is available to accept the responsibility of guardianship, the judge may appoint a private fiduciary who charges fees for services provided.
- If the ward has no money, the judge may appoint a Public Fiduciary as Guardian.

Document Review

- Annual reporting is required for guardianship
- Review documents on a yearly basis and change any outdated information
- Additional documentation is required:
 - Mental/behavioral health
 - Financial



Mental Health Authority



- Required when/if it becomes necessary to place the ward in a locked facility.
- Mental Health Authority is granted for one year.
- An evaluation by a psychiatrist/psychologist is required to reauthorize

Conservatorship

- A person who is not capable of managing his or her finances and who owns property or has income or other assets may benefit from a court appointed conservator.
- If a person's only income is from SSI or SSDI, a representative payee would be more appropriate than a conservatorship.



Guardian or Conservator, What is the Difference?

- A **guardian** makes decisions about the **person**
- A **conservator** makes decisions about the person's **assets** or estate



Alternatives to Guardianship

- Families are encouraged to choose the least restrictive option(s) regarding guardianship and managing an individual's rights to their life decisions.



Power of Attorney

- Power of Attorney must be given by **informed consent**.
- Durable General(Financial) Power of Attorney
 - Durable Health Care Power of Attorney
 - Mental Healthcare Power of Attorney



What is Supported Decision Making?

- Supported Decision-Making (SDM) - where older adults and people with disabilities use trusted friends, family members, or professionals to help them understand the situations and choices they face so they can make their own decisions and direct their own lives.
- <http://www.supporteddecisionmaking.org/>

Other Considerations

- Living Will
- Special Needs Trusts
- Representative Payee for Social Security
- Registration for Selective Service
- Special Education Transfer of Rights

Living Will and Special Needs Trusts



Representative Payee
for Social Security



Selective Service



Special Education
Transfer of Rights



Parent to Parent Connection

Would it be helpful to speak with another parent who has experienced this journey?



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How to Refer a Family to Raising Special Kids

Families can always contact us directly
602-242-4366 or 800-237-3007
info@raisingspecialkids.org

Or complete our referral form so we can contact the family. Forms are available at www.raisingspecialkids.org

We will follow up with you after making contact with the family you referred!

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Resources

- Raising Special Kids (800) 237-3007 www.raisingspecialkids.org
Arizona Center for Disability Law (602) 274-6287 www.acdl.com
Arizona Technology Access Program (AzTAP) (800) 477-9921 or (602) 728-9535 http://aztap.org/
EPICS (Education for Parents of Indian Children with Special Needs) (505) 767-6630 www.epicsproject.org

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Resources

- **CPIR** (Center for Parent Information and Resources) <http://www.parentcenterhub.org/>
- **ECTA Center** (The Early Childhood Technical Assistance Center) <http://ectacenter.org/>
- **NSTTAC** (National Secondary Transition Technical Assistance Center) <http://nstattac.org/>
- **NAPTAC** (Native American Technical Assistance Center) <http://nattac.org/>
- **CADRE** (The National Center on Dispute Resolution in Special Education) <http://www.directionservice.org/cadre/>

Thank You!

Thank you for completing the evaluation
 602-242-4366
www.raisingpecialkids.org
 Raising Special Kids is **Going Green!**
 Please return materials for recycling if you
 will not need them 😊

MAKE A GIFT TODAY

Help Raising Special Kids serve thousands more Arizona families

- Donations to Raising Special Kids qualify for state tax credits.
- New rules allow all taxpayers, NOT JUST those who itemize on their Arizona tax return, to claim a personal tax credit up to \$400 per couple (\$200 as an individual).
- **This is not just another deduction—it's a tax credit that reduces the amount you owe the state... dollar for dollar.**
- Your donation to Raising Special Kids may also be deductible on your federal tax return—even though you get it all back as a state tax credit.
- To learn more, log on to www.raisingpecialkids.org


