



INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY

Chapter 10: Guardianship and Adoption

Section 23: Guardianship Overview

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Version: 01

• [Procedure](#)
• [Definitions](#)

• [Forms and Tools](#)
• [Related Policies](#)

• [Legal References](#)
• [Practice Guidance](#)

POLICY OVERVIEW

When reunification and adoption are not in a child's best interest, legal guardianship may secure permanency for the child. Legal guardianship is a permanency option, which uses court intervention to judicially create a legal relationship between a child and a responsible adult or relative caregiver. Guardianship is intended to be self-sustaining and provide legal permanency for the child without the necessity of terminating the parental rights of the parents. Transferring legal responsibility through the establishment of a guardianship removes the child from the child welfare system, allows the caregiver to make important decisions on the child's behalf, and establishes a long-term caregiver for the child.

[Back to Top](#)

PROCEDURE

When reunification with parents is unsafe or not in the child's best interest, the Indiana Department of Child Services (DCS) will convene a Child and Family (CFT) Meeting and/or Case Plan Conference to consider if legal guardianship with a responsible adult is an appropriate alternative to reunification. DCS will discuss legal guardianship planning and identify any needed services for a child in out-of-home care with a Permanency Plan of Guardianship.

The Family Case Manager (FCM) will:

1. Assess the child's readiness for guardianship and develop a plan to facilitate a smooth transition to this legal permanency option. See policy 10.02 Assessing and Preparing the Child for Guardianship and Adoption for additional guidance;
2. Update the Case Plan/Prevention Plan to reflect the court approved Permanency Plan of Guardianship. See policy 5.08 Developing the Case Plan/Prevention Plan for additional information;
3. Determine if the resource parent plans to pursue guardianship;

Note: DCS will offer support and guidance through the process and may review the 10.C Tool: Difference Between Adoption and Guardianship to assist the prospective guardian in making a decision when it is in the best interest of the child. See policy 10.04 Resource Parent's Role in Preparing the Child for Guardianship or Adoption for more information.

4. Ensure the following persons are notified of the court's ruling regarding the Permanency Plan:
 - a. The child (if age and developmentally appropriate),

- b. Prospective guardian,
 - c. Child's parent, guardian, or custodian, and attorney of record,
 - d. Resource parent (if different from the prospective guardian),
 - e. Mental health provider or therapist, if applicable,
 - f. Guardian ad Litem (GAL) or Court Appointed Special Advocate (CASA), if applicable,
 - g. Members of the CFT, and
 - h. Any fit and willing relative or person who DCS knows has a significant relationship to the child.
5. Provide the prospective guardian with information about the Guardianship Assistance Program (GAP). See policies 14.01 Guardianship Assistance Program (GAP) and 14.02 Negotiations for GAP Assistance for more information;
- Note:** To be eligible for GAP, reunification and adoption must not be in the best interest of the child.
6. Discuss the resource parent's role in preparing the child for guardianship, and assist the resource parent in supporting the child in achieving permanency;
- Note:** This discussion should take place whether or not the resource parent is the prospective guardian.
7. Ensure sibling connections are maintained when possible. See policies 8.12 Developing the Visitation Plan and 10.05 Maintaining Sibling Connections for additional guidance;
8. Convene a CFT or Case Plan/Prevention Plan conference to identify needs, services, and/or reasonable accommodations to prepare the child and the prospective guardian for the guardianship. See policy 5.07 Child and Family Team (CFT) Meetings for additional information);
9. Once a guardianship is finalized, discuss case closure with the FCM Supervisor. See policy 5.12 Closing a CHINS case for additional guidance.
10. Upload all documentation into the case management system.

The FCM Supervisor will:

1. Staff the case with the assigned FCM and make recommendations regarding the Permanency Plan;
2. Ensure the Case Plan/Prevention Plan has been updated to reflect the new Permanency Plan;
3. Assist the FCM with the guardianship process, as needed;
4. Review and approve services needed for the child and guardian; and
5. Discuss case closure with the FCM and assist with any identified barriers.

The Adoption Consultant will:

1. Provide permanency consultation for the child and prospective guardian where permanency is stalled; and
2. Participate in CFT Meetings to provide subject matter expertise on guardianship.

The DCS Staff Attorney will:

1. Meet with the FCM, FCM Supervisor, and/or Local Office Director (LOD), as appropriate, to determine next steps once guardianship is identified as a permanency option;
2. Receive notification if a guardianship petition is filed, modified, or terminated for all guardianships created during the course of an Informal Adjustment (IA) or for all

guardianships filed after July 1, 2011, regarding any child who was the subject of an open or closed Child in Need of Services (CHINS) action. See Administrative Letter: Legal Guardianship for additional information; and

3. Upon receiving notification of a motion or petition to modify or terminate a previously granted guardianship of a ward, or former ward, staff with the LOD to determine how to proceed.

The DCS LOD will collaborate with the DCS Staff Attorney to determine the next steps for any motions or petitions to modify or terminate a previously granted guardianship of a ward, or former ward.

[Back to Top](#)

RELEVANT INFORMATION

Definitions

Legal Guardianship

Legal Guardianship is the transfer of parental responsibility and legal authority for a minor child to an adult caregiver who intends to provide permanent care for the child. Guardianship may be established with or without Termination of Parental Rights (TPR).

Relative

A relative is defined in IC 31-9-2-107(c) as any of the following in relation to a child:

1. A parent;
2. A grandparent;
3. A brother;
4. A sister;
5. A stepparent;
6. A stepgrandparent;
7. A stepbrother;
8. A stepsister;
9. A first cousin;
10. An uncle;
11. An aunt;
12. Any other individual with whom a child has an established relationship.

Forms and Tools

- [10.C Tool: The Differences between Adoption and Guardianship](#)
- [10.XX: Legal Guardianship](#) (currently administrative letter)
- [Casey Family Programs-Guardianship Assistance Policy and Implementation: A National Analysis of Federal and State Policies and Programs](#)
- [Child Welfare Gateway-Kinship Guardianship as a Permanency Option](#)

Related Policies

- [5.07 Child and Family Team Meetings](#)
- [5.08 Developing the Case Plan/Prevention Plan](#)
- [5.12 Closing a CHINS Case](#)
- [6.10 Permanency Plan](#)
- [6.11 Permanency Hearing](#)
- [10.02 Assessing the Child's Readiness for Guardianship or Adoption](#)
- [10.04 Resource Parent's Role in Preparing the Child for Adoption or Guardianship](#)
- [10.05 Maintaining Sibling Connections](#)

- [14.01 Guardianship Assistance Program \(GAP\)](#)
- [14.02 Negotiations for Guardianship Assistance Program](#)

[Back to Top](#)

LEGAL REFERENCES

- [IC 29-3-5-4.1: "Disability"; guardianship](#)
- [IC 31-9-2-107\(c\): Relative](#)
- [42 USC 12102: Definition of disability](#)

[Back to Top](#)

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PRACTICE GUIDANCE- DCS POLICY 10.23

Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.

N/A

[Back to Top](#)

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