



## The Arc Guide to Guardianship

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When an individual turns 18 years old, they are considered a legal adult whether or not they have a disability. Adults have full rights and responsibilities unless guardianship is established. Guardianship is a substitute decision making process. It exists to help adult individuals who struggle making or communicating safe and healthy decisions without assistance. Alternative and less restrictive options should always be considered when thinking about guardianship.

### Alternative Options to Guardianship

Other ways to support an adult with decision making should be considered before deciding on guardianship. Alternatives might include:

- informal supervision
- joint bank account
- health care directive
- power of attorney
- trustee of the estate
- representative payee

### Guardianship

Consider guardianship if an adult cannot make or communicate safe and healthy decisions independently, and if less restrictive alternatives are not enough support. There are 7 powers of guardianship. Consider each power individually, and where a person needs assistance. An individual may be under limited or full guardianship. Limited guardianship means you pick and choose areas where an individual needs assistance. You do not have to choose all 7 guardianship powers unless the support is needed. When full support is needed, this is called full guardianship. The legal powers of guardianship include:

1. Determining place of abode (where the person lives)
2. Care, comfort and maintenance (needs for shelter, nutrition and access to service - including academic and vocational services)
3. Reasonable care for personal effects (clothing and furniture)
4. Medical or other professional care
5. Approval or withholding of contracts
6. Supervisory authority
7. Accessing government benefits

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For further information or advocacy services, contact The Arc Greater Twin Cities at 952-920-0855 or visit [www.arcgreatertwincities.org](http://www.arcgreatertwincities.org). Thank you!

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### Frequently Asked Questions

**1. I keep hearing the term ‘ward’.**

Individuals under guardianship are called “wards” or “protected persons.” Depending on the powers granted, guardians can make legal decisions on behalf of the ward. They may make decisions about where a person lives, medical decisions and/or make sure the ward is well cared for.

**2. How is guardianship established?**

Guardianship is a legal process administered by the probate court. To establish guardianship, a petition is filed with the court in the county where the ward lives. After the petition is filed, a hearing is held where the judge decides whether the individual needs a guardian and who should be appointed guardian. This process requires the person who files the petition to provide evidence the individual is unable to make and communicate responsible decisions and cannot meet his or her personal needs.

**3. What is the cost of guardianship?**

If the person with the disability (regardless of parental assets) is not able to pay the fees and costs for establishing the guardianship, the family and their attorney may proceed with **IFP, In Forma Pauperis**. IFP will waive the court fees and pay attorney fees. The rules for in forma pauperis vary by county. Most counties will not approve a petition if the family has a supplemental or special needs trust for the benefit of the person with the disability. Not all attorneys agree to represent in forma pauperis.

**4. What yearly paperwork needs to be submitted?**

Guardians must provide an *Annual Report of Well-Being* to the county district court where the guardianship is established. This is very important, and guardians are not reminded to send this in. Mark your calendar to complete this form every year within 30 days of when guardianship was established.

### How can I learn more about guardianship?

- Watch [8 Things to Consider in Guardianship](#), created by The Arc to answer questions people commonly have about guardianship.
- Watch this [video](#) created by Hennepin County explaining guardianship.
- Call The Arc with specific questions or attend training on guardianship.
- Start the process with a guardianship attorney. You can get a list of attorneys who specialize in guardianship from The Arc Greater Twin Cities by calling 952-920-0855.

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