

What if the ward disagrees with the guardian or no longer needs a guardian?

- A person who is unhappy with a guardian should file a complaint with the Probate Court. The Court will read the complaint and decide what to do, if anything. The Court may schedule a hearing to discuss the problems. The Court must tell both the person making the complaint and the guardian what the Court decides.
- A person who feels she can make some or all of her own decisions can ask the Probate Court for a "Guardianship Review Hearing." This request is made by filing a Motion to Terminate the Guardianship. The soonest a person can make this request is 120 days after a guardian was appointed. If the Court does not grant the Motion, a new request can be filed once every year.
- A person always has the right to ask the Court to change or stop the guardianship or to replace the guardian. A person can ask the Court at any time to review the guardian's actions.
- A person subject to guardianship proceedings who cannot afford an attorney has the right to a court appointed attorney. The person also has the right to an independent expert evaluator to assess the need for guardianship. Ask the Probate Court right away to appoint an attorney to help protect the rights of someone facing or subject to guardianship.

For a complete list of other rights wards have, as well as names of organizations that help people with guardianship, visit <https://lasclev.org/rights-and-resources-for-people-who-have-a-guardian/>.



This brochure was prepared by Legal Aid, which serves low-income residents of Ashtabula, Cuyahoga, Geauga, Lake and Lorain counties in Northeast Ohio.

Intake Line for New Legal Cases

Toll Free: 888.817.3777

Tenant Information Line

Call for info related to tenants' rights and rental housing.

(This line does not provide legal advice.)

216.861.5955

Learn more about Legal Aid and upcoming brief advice clinics:

www.lasclev.org

Legal Aid Offices:

Cleveland & Administrative Offices

1223 West Sixth Street, Cleveland, OH 44113

Elyria Office

1530 West River Road, Suite 301, Elyria, Ohio 44035

Jefferson Office

121 East Walnut Street, Jefferson, OH 44047

Painesville Office

8 North State Street, Suite 300, Painesville, OH 44077

If you have a communications limitation, contact Legal Aid through the Ohio Relay Service at 800.750.0750.

Legal Aid offers interpretation and translation services so those with limited English proficiency can communicate with Legal Aid staff in their dominant and/or preferred language.

The information in this brochure cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation or if you have questions.



Ohio Guardianship



*The
Legal Aid Society
of Cleveland
Since 1905*

What is a guardian?

A **guardian** is a person or organization appointed by a Probate Court to be legally responsible for another person and/or another person's property. If a person cannot make their own decisions, a Probate Court can appoint someone to make decisions for the person. This is called a "guardianship." A person who has a guardian appointed is called a "**ward**."

A Probate Court may appoint one of three types of guardians: **guardian of the person**, **guardian of the estate**, or **guardian of the person and estate**. A guardian of the person handles the personal affairs of the ward, such as decisions about medical treatment. A guardian of the estate handles the finances of a ward, including paying bills and buying items for the ward. A guardian of the person and estate handles both the personal affairs and finances of the ward.

When is a guardianship necessary?

In Ohio, a guardianship is an involuntary proceeding where a family member or other concerned person ask a Probate Court to protect someone who appears to be incompetent. The Court can appoint a guardian for a minor or adult who is not able to manage his or her own affairs because of young age, advanced age, substance abuse, or physical or mental disability. Guardianship is one of the more restrictive protective services under Ohio law. It is only necessary when a person cannot care for their own basic needs, finances, and medical issues and when a less restrictive option is not possible. Probate Court must consider less restrictive options before imposing a guardianship.

What are the responsibilities of a guardian and rights of a ward?

A guardian must always follow the orders of the Probate Court and act in the best interest of the ward when making decisions. These decisions should be supported by the ward's wishes when not harmful.

Guardians must provide the Probate Court with written reports and accounts, so the Court can keep track of how well a guardian is doing. Sometimes a guardian must get permission from the Court before making a decision for a ward, like before selling a ward's home.

Under current Ohio law, a ward or prospective ward has the following rights:

- A guardian has to meet with the ward in person **at least one time before** being appointed guardian. After being appointed, the guardian must meet with the ward in person **at least four times each year**. The guardian cannot send someone else or talk by phone with the ward for any of the mandatory four visits.
- A guardian must learn about the ward, including likes and dislikes, views and beliefs, other important people to the ward, and things the ward likes to do. The guardian's decisions should match the ward's wishes as much as possible.

The guardian has to make sure a ward's needs are met with the goal of maximizing a ward's independence.