

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



Business Process: Achieving Guardianship

I. POLICY

When a child is placed in out-of-home care, the first objective of the D.C. Child and Family Services Agency (“CFSA” or “Agency”) is to seek reunification with the birth family or caregiver. If reunification is not possible, CFSA shall pursue an alternative permanency goal, generally adoption because adoption is a permanent legal relationship. Adoption must be fully considered and ruled out as an appropriate permanency option before alternative goals, such as guardianship, are considered. Unless special circumstances apply, CFSA does not pursue a goal of guardianship under the following circumstances (1) if children are under age 14, (2) if a prospective guardian has not been identified, or (3) if children are placed with non-kin caregivers.

A goal of guardianship must be granted by the D.C. Family Court (“the Court”). Once the goal is achieved, there is a new legal relationship of parent and child that does not require termination of the birth parents’ rights. In keeping with federal recommendations, CFSA seeks to finalize a guardianship within 18 months of a child’s entry into foster care. (See the [Permanency Practice policy](#) for more information on permanency goals).

II. PROCEDURES

A. Guardianship Practice Overview

Guardianship practice at CFSA has two primary objectives which are pursued at the same time: (1) to build and support the relationship between a child and his or her prospective guardian; and (2) to secure the Court’s finalization of the guardianship arrangement. The assigned social worker shall be the clinical lead throughout this process and shall work in close collaboration with the assigned Assistant Attorney General (“AAG”) who represents the Agency in court proceedings.

1. The clinical team shall determine the feasibility of a goal of guardianship after reunification and adoption have been ruled out.
2. The clinical team shall ensure that the work to build and support the relationship between a child and his or her prospective guardian is structured through the Child Case Plan and the Service Agreement (located in the Case Plan). The social worker shall update both documents every 6 months and 3 months, respectively, throughout the life of a case (See the [Case Planning business process](#) for more information).
3. The clinical team shall ensure the Court’s finalization of a guardianship proceeds through these stages:
 - a. Preparing the prospective guardian (e.g., including addressing Interstate Compact for the Placement of Children [ICPC] needs or licensing issues, if applicable or finalizing the subsidy referral)
 - b. Preparing for trial
 - c. Trial
 - d. Reporting to the Court
 - e. Finalization

4. Following the establishment of a goal of guardianship, the assigned social worker shall continue to work with the birth parents, as appropriate and with their consent, to both support their adjustment to the new permanency arrangement, and secure greater stability in the birth home. These parent-to-worker contacts are documented in FACES.net and shall take place at least once per month until the case closes.

B. Establishing a Goal of Guardianship

1. Guardianship does not confer a permanent parent-child relationship. As such, it is not CFSA's first choice when reunification with caregivers cannot be achieved. Adoption must be fully considered and ruled-out as an appropriate permanency option before the Agency will recommend a goal of guardianship to the Court. Circumstances that might rule-out an adoption goal include, but are not limited to:
 - a. A child who is placed with kin who do not want to move forward with adoption due to parental ties or other relevant family dynamics
 - b. A child whose resource parents' marital status prevents adoption
 - c. A child who has a financial situation that would be disrupted by adoption

2. Requirements for recommending a goal of guardianship

The clinical team shall observe the following requirements:

- a. Guardianship shall not be recommended if a prospective guardian has not been identified for the youth. Under some very limited circumstances, and only with approval of the Deputy Director, this requirement may be waived.
- b. Pursue kin identification and engagement efforts from a child's entry into foster care throughout their time in care, so that kin can be prioritized as guardianship resources and competing motions are avoided. Non-kin guardianships can be pursued if kin are not available and/or there are demonstrable reasons why a non-kin caregiver cannot adopt the child.
- c. If a child is younger than age 14, the approval of the Deputy Director of Program Operations is required prior to making a goal change recommendation to the Court. A case staffing with the Deputy Director, to include the AAG, is the mechanism for securing approval.
- d. If a child older than age 14 has a goal of adoption, and the clinical team wants to recommend changing the goal to guardianship, approval of the Deputy Director of Program Operations is required.
- e. If the prospective guardian is struggling with or does not follow through with steps needed to become a guardian, the social worker shall raise these concerns during supervision and/or they will be discussed during a Permanency Goal Review Meeting (PGRM) to determine whether the goal is viable, or a change should be recommended.
- f. In the case of a finalized guardianship that disrupts, CFSA may recommend continuation of the goal of guardianship as long as all other permanency goals have been ruled out and a prospective guardian has been identified.
- g. *All clinical staffings, and discussions about a guardianship goal (held with age-appropriate youth and family members), shall be fully documented in FACES.net.*

C. Preparing the Prospective Guardian

Before a guardianship can be finalized by the Court, there are steps that must be taken, as detailed below. Although the guardianship should not be finalized until the child has been living in the guardian's (licensed) home for a period of six months (in accordance with Title IV-E guidelines), these preparatory processes shall begin as soon as the goal is changed to guardianship so that finalization is not delayed beyond that six-month window.

1. Secure a Prospective Guardian's Party Status

- a. **Purpose.** Party status to a case governs who is both allowed in the courtroom and able to participate in the proceedings without restrictions. Once the permanency goal changes to guardianship, it is important that the prospective guardian be included in the proceedings. They must have party status to do so.
- b. **Process.** The AAG and social worker shall develop a plan for supporting the resource parents in securing party status. If the child has been in the home for 12 months or longer, the parent's attorney (if they have one), the AAG or the Guardian ad Litem ("GAL") may make an oral or written motion to the Court to grant a prospective guardian party status. If a child has been in the home for less than 12 months, party status may be granted at the discretion of the Court, or requested by the parent's attorney, the AAG or GAL.
- c. **Timeframe.** As soon as a prospective guardian is determined to be the permanency option, the clinical team shall set in motion the plan for seeking party status.
- d. **Documentation.** The supervisory social worker shall enter into the Permanency Tracker the date the prospective guardian secures party status.

2. Prospective Guardian Secures an Attorney

- a. **Purpose.** CFSA recommends that prospective guardians retain an attorney to file a guardianship motion with the Court and to represent them in court processes. In the alternative, prospective guardians can file "*pro se*", which means they can represent themselves in court, although it is not recommended. Some CFSA prospective guardians who meet eligibility criteria may be represented by a *pro bono* attorney (for free) through the Counsel for Child Abuse and Neglect (CCAN) office.
- b. **Process.** Once a prospective guardian is granted party status by the Court, they can contact the CCAN offices for a financial eligibility interview and assignment of an attorney. CCAN and/or the assigned social worker can provide a list of CCAN attorneys who represent prospective guardians. The prospective guardian may also seek counsel elsewhere. The AAG shall notify the social worker when an attorney has been secured.
- c. **Timeframe.** To keep the guardianship process moving forward expeditiously, an attorney should be secured within 4-6 weeks of: 1) the Court changing the child's permanency goal to guardianship (if the child is already in the prospective guardian's home), or (2) the placement date if the child is new to the home.
- d. **Documentation.** The supervisory social worker shall enter into the Permanency Tracker the date the prospective guardian secures an attorney.

3. Filing a Motion for Guardianship

- a. **Purpose.** A guardianship motion is the legal commitment to pursue guardianship of a child and must be filed in the Court, preferably by an attorney representing the prospective guardian. It is a vital part of moving a guardianship case forward.
- b. **Process.** While the GAL and AAG are legally able to file a motion for guardianship, CFSA relies on the prospective guardian's attorney to do so since it signals readiness. The AAG shall receive the guardianship motion from the Court and shall send it to the social worker. The social worker who is closely monitoring all legal events related to the case shall anticipate the delivery of the motion from the AAG.
- c. **Timeframes.** CFSA shall seek to have a guardianship motion filed within 2 months of the guardianship goal (if the child had already been living in the home), or of the placement date if the child is new to the home. The AAG shall send the motion to the social worker within one 1 week of receiving it.
- d. **Documentation.** The social worker shall file a copy of the guardianship motion in the case file. The supervisory social worker shall enter into the Permanency Tracker the date the prospective guardian files a motion.

4. Subsidy Agreement

- a. **Purpose.** Children who have been in foster care may be eligible for a monthly financial subsidy until age 21, to help their legal guardians meet their needs. The Subsidy Unit shall negotiate a subsidy agreement individually with each family and their attorney.
- b. **Process.** Upon receipt of the guardianship motion, the social worker shall begin working with the resource family to complete and submit the guardianship subsidy referral to the subsidy supervisor. The subsidy supervisor shall review the referral and assign a subsidy worker. The subsidy worker shall work with the prospective guardian to complete the guardianship subsidy agreement.

Note: *The guardianship referral packet shall include: the guardianship subsidy referral completed in FACES.net; the subsidy application completed by the prospective guardian(s); a copy of the prospective guardian's current 1040 income tax return; a copy of the guardianship motion; copies of the child's birth certificate and social security card; the child's medical documentation (if applicable); the child's initial hearing order; and a copy of the foster home license.*

- c. **Timeframes.** Within 21 business days of the motion being filed, the social worker shall submit the referral packet to the Subsidy Unit. If eligible, the Subsidy Unit shall seek to finalize an agreement with the family within 30 days of the receipt of the referral.
- d. **Documentation.** Subsidy Unit Staff shall enter the following dates into the Permanency Tracker: when (1) the subsidy referral was received; (2) the final proposed subsidy was sent to the family and their attorney; and (3) the agreement on the proposed subsidy was finalized.

5. Interstate Compact for the Placement of Children (ICPC)

- a. **Purpose.** If a child's guardianship resource resides outside the District of Columbia, approval of an Interstate Compact for the Placement of Children ("ICPC") shall be required. (See the [ICPC policy](#) for more information.)
- b. **Process.** Prior to submission of a referral to the ICPC Unit, a guardianship motion must have been filed with the Court and a home study must be completed. If a home study has not been completed, the social worker shall request a foster care home study through CFSA's ICPC Unit.

The ICPC referral packet includes an approved foster care home study, three post placement reports, and a Final Post Placement report recommending guardianship finalization from the assigned child placing agency in the state where the family resides. (See the [ICPC policy and business process](#) for more information).

CFSA's ICPC Unit shall review the ICPC referral for completeness, submit it to the ICPC office in the receiving state, monitor it for approval, and inform the social worker once approved.

- c. **Timeframes.** The social worker shall make an ICPC referral within seven days of a guardianship motion being filed. If the home study has been approved, CFSA's ICPC Unit shall have three days to process and send it to the receiving state's ICPC office. The state office has three days to render its final decision. Delays to these timeframes are often caused by incomplete kinship or foster care home studies/updates or monitoring reports. The assigned child placing agency in the state where the family resides shall complete these items.
- d. **Documentation.** CFSA's ICPC Unit staff shall maintain all relevant data points in the National Electronic Interstate Compact Enterprise (NEICE) database. They shall also enter into the Permanency Tracker the dates an ICPC referral was received, submitted, and approved.

6. Finding a New Guardianship Resource

Circumstances sometimes arise in which the relationship between a youth and their prospective guardian deteriorates. Under these circumstances, the social worker shall immediately take the following steps to attempt to preserve the guardianship relationship and plan for next steps:

- a. **Family Team Meeting (FTM).** Schedule an FTM to explore the concerns and alert the broader family and fictive kin community about the potential need for alternative guardianship resources.
- b. **Therapeutic services.** Refer the child and guardian to the Center for Adoption Support and Education (CASE) and/or other community resources equipped to help families work through such challenges.
- c. **Review of case records.** Review the case history (including the collaterals screen in FACES.net, early FTM reports and all contact notes) and confer with the AAG, GAL and the birth parents' attorney(s) to identify alternative kin on both sides of the family who can potentially be engaged.

- d. **Diligent search.** Make a referral for a new diligent search and follow-up on all leads identified. (See the [Diligent Search policy](#).)

D. Preparing for the Guardianship Hearing or Trial

A guardianship matter can be decided through a hearing or a trial. In either case, the proceeding generally takes place over several days. There is substantial preparatory work to be done by the social worker, AAG, and other CFSA program area staff.

1. Service to Birth Parents

- a. **Purpose.** The birth parents of a child for whom CFSA is pursuing guardianship shall be given the opportunity to either consent to the guardianship or contest it through a Guardianship trial (i.e., provide reasons why the Court should not grant it). Parents are considered officially informed of this action when they are “served” by CFSA for one or more of their children. A summons is served after the motion is filed which includes the date and time of the guardianship hearing or trial.
- b. **Process.** Once the social worker receives a copy of the guardianship motion from the AAG, they shall provide it to the Diligent Search Unit (“DSU”), so that they may try to locate the parents and serve them with it. Social workers are expected to have prepared the parents for this event during previous concurrent planning discussions. In addition, the social worker shall assist the DSU in finding and connecting with the parents, so they can be served.
- c. **Timeframes.** Upon receipt of a guardianship motion, the DSU supervisor shall assign staff immediately. DSU staff shall complete or attempt to complete service by the date listed in the motion.
- d. **Documentation.** DSU staff shall provide the petitioner’s attorney with an “Affidavit of Service” or an “Affidavit of Efforts” to file with the Court, which documents their service of the motion or attempts. DSU staff shall also enter into the Permanency Tracker the dates of their efforts and service of the motion.

2. Child’s Consent

- a. **Purpose.** Children over the age of 14 are required to provide their written consent for a specific individual to be their guardian.
- b. **Process.** The GAL obtains the consent from the child and files it with the Court.
- c. **Timing.** The Court determines when this is to be done on a case-by-case basis and informs all parties during a hearing or other face-to-face meeting.
- d. **Documentation.** The Court or GAL provides CFSA with a copy of the consent, which is then put into the case file. The supervisory social worker shall enter into the Permanency Tracker the date of the child’s consent.

E. Guardianship Hearing or Trial

If both parents consent to a guardianship, the Court generally hears testimony about the caregiver to ensure that person is fit and appropriate; no evidence is presented about the parents. As a result, the proceedings may be considered a hearing as opposed to a trial. If both parents have not consented, the proceeding will be a trial. At the hearing or trial, the Court determines

whether the guardianship is in the best interests of the child, whether the prospective guardian is fit and appropriate, and which parental rights and responsibilities (e.g., education or medical decision-making) should be transferred to that guardian. This information is included in the guardianship order.

1. AAG and Social Worker Roles

- a. The AAG shall be responsible for representing the Agency's position, questioning witnesses, and providing support to the prospective guardian(s) and their attorney.
- b. The social worker may be called as a witness, and shall work with the AAG and the prospective guardians' attorney to prepare for that role (See [Tip Sheets for Testifying in Court](#)).

2. Findings of Fact and Conclusions of Law

- a. **Purpose.** Findings of Fact and Conclusions of Law are a detailed description of the trial and the decision in the case that provide all parties with official documentation of the proceedings.
- b. **Process.** Following the guardianship hearing or trial, the Court may ask the prospective guardians' attorney to submit proposed findings. The social worker has to file the final guardianship report (see Procedure F(2) below), including proof of subsidy, with the Court. The Court generally closes the case, *sua sponte* once the Findings of fact and Conclusions of law are issued.

3. Appeals

- a. The Court's finalized guardianship order may be reviewed by an associate judge of the D.C. Superior Court upon the filing of a motion for review with the Presiding Judge of the Family Court. The motion shall be filed within 10 days after the entry of the final guardianship order.
- b. A decision by an associate judge in the D.C. Superior Court is reviewable by the D.C. Court of Appeals by filing a Notice of Appeal within 30 days of entry of the associate judge's opinion.
- c. The review process does not prevent the Agency from closing the case and achieving permanency, but the social worker shall inform the guardian that the Court's order is under review.

F. Reporting to the Court

CFSA keeps the Court and all parties updated on progress of the case and informed about the Agency's recommendations regarding the child's legal status, placement, and services, through court reports written by the assigned social worker. Reports are due to the Court prior to every scheduled Permanency Hearing, which are held at least every six months. The social worker shall ensure all court reports are included in the case file.

1. Interim Reports

- a. **Purpose.** Prior to filing the Guardianship Final Report (see below), "interim reports" are filed to provide the Court with updates on outstanding items or unanticipated events that

do not necessitate a hearing, such as a protracted subsidy negotiation, a change in social worker, delays with ICPC, or a family development pertinent to the case.

- b. **Timing and approval:** Interim reports are submitted as needed, based on circumstances. They are approved by the Supervisory Social Worker and the Program Manager. The AAG shall review and clarify information in the report before the report is submitted to the Court.
- c. **Submission logistics and documentation.** The social worker shall file a Guardianship Interim Report with the Court. The social worker shall also email the GAL and prospective guardian's attorney a copy of the report. The report is a PDF document and a copy shall be kept in the case file.

2. Guardianship Final Report

- a. **Purpose.** The Guardianship Final Report conveys the full history of the case leading up to the guardianship, including detailed information about the guardians, their home, and the relationship between them and the child, as well as a social history of the birth parents and child. The Guardianship Final Report shall also include a justification for the guardianship plan.
- b. **Timing and approval:** The due date for the Guardianship Final Report is set by the Court during the permanency hearing and is often simultaneous with the Guardianship hearing or trial date. The supervisory social worker and program manager shall approve the report. The development of the report should be ongoing. The social worker shall consistently gather information from various reports and social summaries, parent interviews, and all other client and family interactions before trial.
- c. **Submission logistics and documentation.** The Agency shall serve a copy of the Final Report on all parties to the guardianship hearing. The date the Final Report is submitted is entered into the Permanency Tracker by the supervisory social worker.

G. Finalization

At the conclusion of the guardianship hearing or trial, the following steps shall be taken by CFSA.

- 1. Documentation of the Order granting permanent guardianship. The guardianship findings document provides the date when the guardianship is finalized. Program Operations clerical staff enter into the Permanency Tracker the date this final order was received and send a copy to all staff and managers involved in the case.
- 2. Splitting the case. Upon receipt of the guardianship findings, the Subsidy Unit ends the neglect case and simultaneously opens a new guardianship case in FACES.net. This step, known as "splitting the case," enables the family to receive the guardianship subsidy.
- 3. Post permanency services. CFSA's Post Permanency Team provides crisis intervention services, referrals to various programs, resource information, and support to families who have finalized guardianships in the District of Columbia. These services are provided to prevent disruptions and/or dissolutions, to educate, support, empower, and stabilize families. Information on accessing post permanency services is provided to families by the social worker and in the subsidy agreement.

4. Reopening a finalized guardianship. A finalized guardianship may be re-opened by the Court when there is a material change in circumstances for the child (e.g., upon the death of a guardian; deteriorated relationships with the guardian; or because the parent and child have re-established positive contact with each other). A parent, guardian, child, or the government may file a motion to terminate or modify the guardianship at any time.
 - a. CFSA's Post Permanency Unit shall work with the family to resolve challenges they are facing and stabilize the guardianship to prevent disruption.
 - b. When a guardianship re-opens, the Court typically schedules a hearing and requests a report from CFSA. CFSA will only recommend continuing the goal of guardianship when an alternative guardian is available and permanency with that guardian is determined to be in the child's best interest.