

Young Adult Guardianship

What is young adult guardianship?

When a young adult turns 18, they become their own legal guardian. This means they have both the right and responsibility to make certain legal choices that adults make. For some young adults with disabilities, this may be an exciting time for increased independence. However, there may be some family concerns about how help the young adult make life decisions such as living independently, navigating healthcare, or financial management.

It is vital for parents or caregivers to understand what guardianship entails and whether it is right for their family and young adult. Here are some of the options to consider when they turn 18:

Option 1: Supported decision making

The parent or caregiver supports the young adult and helps them understand the situations and choices they face. The provider and parent or caregiver support decision-making by encouraging them to seek information from trusted professionals and resources, family members, friends, or others. This approach:

- Teaches independence, self-advocacy, and self-determination.
- Allows the young adult the “right to try and fail or succeed” (dignity of risk).
- Is supported with many formal and informal resources.
- Requires the young adult to sign a medical release so the provider can share their medical information with their parents or other caretakers.
- Requires the young adult to add a parent or caregiver to bank accounts and financial information if that support is desired.

Option 2: Guardianship

Guardianship is a legal process in which someone (usually a family member) asks the court to find that a person, age 18 or older, is unable to manage their affairs effectively because of a disability (incompetence). If granted, the guardian makes decisions in the best interest of the person with the disability. This approach:

- Allows the guardian to apply for full or partial responsibility to meet the specific needs of the young adult
- Is legally recognized
- Protects those who need it most and are the most vulnerable
- Does not require a medical release form to be signed.

What are the differences between partial or limited and full guardianship?

- **Partial or limited:** With court approval, a guardian has decision-making authority in limited areas in the young adult's life. This can include managing health care, access to medical records, advanced care directives, wills or trusts, financial assistance, education, and residential care.
- **Full:** Transfers most rights from the (incapacitated) young adult to a guardian like those stated in the limited guardianship. Some examples of exceptions would be marriage, travel, driving, working, voting, etc., when the young adult would still have rights unless stated specifically in the guardianship document and approved by the judge.

What should we consider?

Parents or caregivers should consider the following when deciding whether guardianship is the best option for the young adult:

- Can the individual provide their own necessities such as food, shelter, clothing, healthcare, and safety now or in the future?
- Is the individual able to communicate information and make critical decisions with or without technology about finances, health, and personal care?
- Is the individual able to read and understand contracts with support?
- Is the individual able to handle their own finances with technology, support, and perhaps in the future?
- Is the individual able to keep themselves safe and live independently with technology, support, or perhaps in the future?

If it seems appropriate for the parent or caregiver to proceed with the guardianship process, refer them to the following resources:

- **Website:** utcourts.gov/howto/family/gc/options.html
- **Phone:** 888-683-0009
- **Email:** selfhelp@utcourts.gov

For more information on guardianship and more detailed information on each option, visit the **Utah Parent Center and Transition University**

- **Website:** utahparentcenter.org/guardianship
- **Phone:** 801-272-1051
- **Email:** info@utahparentcenter.org
- **Website:** utahparentcenter.org/transition-university/

Helpful information:

utahparentcenter.org/publications/handbooks/

- **Guardianship of Adult Children with Disabilities in Utah.** Teaches parents about the guardianship rules in the state of Utah. (Also in Spanish)



- **Choices: A Comprehensive Guide.** Supports decision-making, alternatives to guardianship, SSI, SSDI, Medicaid, ABLE accounts, financial and estate planning, person-centered planning, and health care. (Also in Spanish)



- **Successful Transitions for Youth with Disabilities.** A comprehensive guide designed for youth 14 and up to help understanding transition after high school, discovering all the things one can do, all the things one can learn, and all the resources available to them. (Also in Spanish)



Bibliography

- Banck P, Martinis JG. *The Right to Make Choices: The National Resource Center for Supported Decision-Making*. Inclusion 2015;3(1):24-33. <https://meridian.allenpress.com/inclusion/article-abstract/3/1/24/234/The-Right-to-Make-Choices-The-National-Resource?redirectedFrom=fulltext>

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