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GUARDIANSHIP: Ohio's New Rules for Adult Guardianship

The Supreme Court of Ohio recently adopted new rules about adult guardianships. The new rules, Rules of Superintendence 66.01 through 66.09, (supremecourt.ohio.gov/ruleamendments/documents/Adult%20Guardianships%20%28FINAL%29.pdf) went into effect on June 1, 2015. The purpose of the rules is to provide guidance to guardians of adults about the responsibilities and best practices of guardians. The rules also give guidance to courts in appointing and monitoring the activities of guardians. The Court rules are in addition to, and do not replace, Ohio's laws governing guardianship, which are found under Chapter 2111 of the Ohio Revised Code (codes.ohio.gov/orc/2111).

The rules are based on the Standards of Practice adopted and recommended by the National Guardianship Association (guardianship.org/documents/Standards_of_Practice.pdf). However, Ohio's rules are not as comprehensive as the National Guardianship Association's standards.

The new rules were necessary to provide uniformity throughout Ohio's 88 counties and to ensure that the rights and well-being of persons under a guardianship are adequately protected by those entrusted as guardians over them. Serious problems with Ohio's adult guardianship scheme were documented in the Columbus Dispatch's series of articles, "Unguarded," including abuse, neglect and exploitation of persons under guardianship by their guardians (dispatch.com/content/topic/special-reports/2014/unguarded.html).

The new rules:

- **Apply to all adult guardians.** Like Ohio's guardianship laws, the new rules apply to all guardians of adults appointed under O.R.C. 2111.02, regardless of the guardian's relationship to the person under guardianship (e.g. a family member) or level of experience (e.g. a professional guardian). Probate courts do have the discretion to exempt family member guardians from some or all of the rules' requirements, but only if there is good cause to do so. Family guardians should check with their local court to find out if the court will provide any exemptions and, if so, what circumstances will provide good cause for exemptions.



- **Require criminal background checks.** Anyone appointed to become a guardian over an adult must undergo a criminal background check and submit the results to the appointing court. New applicants and existing guardians should check with their local probate court about the process. Attorneys serving as adult guardians may be able to submit their Supreme Court of Ohio certificates of good standing with disciplinary information in lieu of a criminal background check but should first check with their local court.
- **Require education.** All guardians are required to complete a one time, six-hour fundamentals course on adult guardianship and a three-hour continuing education course every year afterward. The courses are offered for free by the Supreme Court of Ohio and will take place in multiple regions of the state. Two versions of the fundamentals course will be offered – one for laypersons (such as family guardians) and one for professionals (such as attorneys). For the schedule of course offerings and locations, visit the Supreme Court of Ohio’s Course Information & Registration page (supremecourt.ohio.gov/Boards/judCollege/adultGuardianship/fundamentals.asp).
 - Persons appointed as guardian on or after June 1, 2015, and who have not served as an adult guardian for the previous five years will need to complete the fundamentals course within six months of their appointment as guardian. Persons appointed prior to June 1, 2015, and who have served as an adult guardian within the past five years have one year to complete the course.
 - County probate courts have the discretion to excuse experienced guardians from taking the fundamentals course for good cause, but experienced guardians cannot be excused from the annual three-hour continuing education courses.
 - Additionally, county probate courts have the authority to allow guardians to receive the required education from an entity other than the Supreme Court of Ohio. For example, some county probate courts have their own education and training programs that may be similar to the Supreme Court of Ohio’s fundamentals course. Likewise, the Central Ohio Area Agency on Aging’s Volunteer Guardian Program requires extensive education and training of its volunteer guardians, which may be similar to or even more extensive than the fundamentals course. Any adult guardian wishing to substitute another entity’s course for the Supreme Court of Ohio’s fundamentals course must first check with the county probate court, get prior approval from the county probate court, and must still submit the necessary documentation of course completion in order to comply with the rules.
- **Require visitation.** The rules require guardians to visit the person under guardianship at least once every three months (four times per year). The visit has to be in person (i.e. not by phone or email) and the guardian himself or herself must visit, not someone delegated by the guardian to visit on his or her behalf. Ideally, guardians will have more frequent contact and visits.
- **Maximize person-centered planning and least restrictive settings.** Taking away a person’s right to make their own decisions and appointing a guardian to make those decisions for them is an extraordinary act. The rules recognize this and place a

duty on guardians to advocate for person-centered planning that takes into account the likes and dislikes, views and beliefs, relationships, preferred activities, etc., of the person under guardianship and promotes the independence of the person under guardianship to the fullest extent possible. To that end, the rules also require guardians to prepare and submit an annual plan that lists personal and financial goals for the person under guardianship. The annual plan is separate from, and in addition to, the guardianship report that was already required every two years.

For more information about the rules, see the Supreme Court of Ohio's "Guardians of Adults Frequently Asked Questions (FAQ)" at supremecourt.ohio.gov/Boards/judCollege/adultGuardianship/FAQ.asp.

For general information about guardianship, visit DRO's Guardianship resources page at disabilityrightsohio.org/topic-guardianship.