



Practice Guidelines

Choosing Guardianship as a Permanency Plan

Version Date 6/10/2016

Engage family members in permanency decisions

- Define key terms when discussing the permanency plan. Don't use unfamiliar jargon or acronyms.
- Be clear and honest about your obligation to secure permanency for the child. Explain that if reunification with the parents is not possible, you need to place the child with a new permanent family through adoption or guardianship.
- Communicate frequently with all family members so they are informed on the permanency plan and the agency's intentions.
- Assess the unique needs of the child and prospective caregivers, and discuss the different resources that will be available for each permanency plan option to ensure all parties are making an informed decision.
- Explain the differences between adoption and guardianship to older children and listen to the youth's thoughts and wishes.

(Child Welfare Information Gateway. Bulletin for Professionals. Engaging Families in Case Planning.)

There are benefits to guardianship when reunification and adoption have been ruled out.

- Guardianship can increase a child's sense of normalcy by retaining the original family roles, such as grandparent and grandchild.
- Birth parents can remain involved in the child's life, if appropriate. If parental rights are not terminated or relinquished, the parents may retain rights to visit the child and to consent to adoption.
- Guardianship can be less traumatic for parents, and help retain dignity.
- Parents may agree to guardianship, which avoids difficult contested termination (TPR) hearings and achieves permanency more quickly.
- Relatives who do not want the parents' rights terminated, or are hopeful that the parents will be able to change and assume parenting in the future, may feel more comfortable with guardianship.
- A child 12 and over must consent to adoption and guardianship. A child may be unwilling to consent to adoption, but agree to guardianship.
- In some situations, guardianship is the only alternative for children who might otherwise remain in out-of-home care without permanency.
- A significant person in the child's life may not want to adopt, but may be willing to be a guardian.

Consider the impacts to the child, parents, and guardian when determining which plan is in the child's best interest.

- Provide children with age-appropriate information on adoption and guardianship to prepare them to voice their preferences.
- Reunification is the preferred permanency option, when it can be achieved safely and within a timeframe that meets the child's needs.
- Adoption is a more permanent option than guardianship, and provides a lifelong legal relationship between the child and adoptive parent.
- Consider the needs and wishes of each child in a sibling group, particularly about maintaining sibling connections. An older sibling may prefer guardianship because of existing relationships, but adoption of a sibling by a different family often results in long-term sibling separation.
- Adoption subsidy provides more financial aid and support services than are offered through guardianship subsidy. For example, guardians must apply for AHCCCS for the child and renew their eligibility yearly, while AHCCCS is provided through adoption subsidy.
- Juvenile court-ordered permanent guardianship continues until the child is an adult. Guardians must be prepared to care for the child until adulthood.
- DCS services for the parents to help them achieve reunification will end when guardianship is ordered. If the parents want to regain custody of the child, they will need to seek services on their own.
- Permanent guardianship may require some court and agency follow-up. Usually this is a one-time home visit a year after the guardianship is finalized. Sometimes the court may order additional follow-up by DCS and/or additional court hearings. Make sure the caregiver is able and willing to participate in future home visits.

Guardianship may be more culturally respectful.

- Historical oppression and other influences on cultural values may impact a caregiver's view on adoption as a permanency option.
- Explain the goal of permanency and the available options. Ask the family about their beliefs and consider permanency options consistent with these values.
- Be sensitive to family member's language, roles, and parenting expectations.
- Guardianship is a more culturally respectful option for many American Indian families.

"...adoption has been practiced in most tribal communities through custom and ceremony. In general, tribes did not practice termination of parental rights...adoption became a negative thing due to forced assimilation policies; it was used as a tool to destroy Indian families and culture"

(National Indian Child Welfare Association)

Additional considerations

- The guardianship can be granted in the child's county of jurisdiction or the guardian's county of residence.
- ICPC must be approved before guardianship is finalized with an out-of-state caregiver.

Legal Authority and Responsibility

When a permanency goal of guardianship is selected, the Child Safety Specialist may file a motion for permanent guardianship if:

- A child has been in a relative or foster home for at least nine months as a dependent child. (DCS may request that the court waive the nine month requirement for "good cause," such as the child lived with the placement prior to entering DCS custody or the prospective guardians are planning to move out-of-state.)
- The prospective guardian has made a commitment to care for the child and ensure the child's continued safety through transition to adulthood.
- It is determined by the court that guardianship is in the best interest of the child.

Guardianship Subsidy

- Financial supports (guardianship subsidy payments) are available to a permanent guardian of a child who was in the custody of DCS at the time the permanent guardianship was granted. Once a guardianship is established, the child is no longer eligible for adoption subsidy if the guardian later wants to adopt.
- The Child Safety Specialist should assist the caregivers with applying for guardianship subsidy once the permanency goal is changed to guardianship.
- To receive these subsidy payments, the guardian must apply for state and federal benefits for which the child may be eligible (SSI, SSA).
- Guardianship subsidy payments do not cover all of the expenses of caring for the child. The Child Safety Specialist should help the prospective caregivers assess the amount of support they will receive from subsidy payments and state and federal benefits to assure they can meet the basic needs of the child.
- DCS will review the guardianship subsidy each year to assure the guardian remains eligible. The guardian may lose subsidy payments if he/she does not apply for the required federal or state benefits or fails to comply with requirements for receiving guardianship subsidy, if the child no longer lives with them, or if funding is no longer available through the state.

Guardianship maintains family connections

Guardianship increases children's sense of family stability and allows them to retain rights of association with their family members. Parents, children, and caregivers may feel more comfortable with guardianship because they retain their original roles as grandparent/grandchild, aunt/uncle & nephew/niece, siblings, and parent/child.

Resources for caregivers

- The *Adoption & Title 8 Permanent Guardianship Information* flyer (CSO-1060A) provides a comparison between adoption and guardianship.
- The Title 8 Guardianship Subsidy pamphlet (CSO-1163A) provides written information on available financial resources for guardians.
- The guardian should apply for AHCCCS for the child to help with medical care.
- Arizona Kinship Support Services assists kin caregivers with identifying community resources in Tucson at (520)323.4476 and in Maricopa County at (480)748-9269. (ArizonaKinship.org)
- In Maricopa County, Duet offers supports to grandparents raising grandchildren including support groups, respite care, and connections with community resources. Contact them at (602) 274-5022 or duetaz.org.
- Classes for caregivers on Adoption and Guardianship and Kinship Foster Care are available by calling any of the above listed agencies.

