

Legal Guardianship and Kinship Guardianship Assistance

Legal Guardianship and Kinship Guardianship Assistance

Rhode Island Department of Children, Youth and Families

Policy: 700.0045

http://www.dcyf.ri.gov/docs/amended_rules/700.0045_legal_guard_kingap.pdf

Effective Date: November 16, 2009

Version: 1

The Department utilizes a family centered practice approach in developing an individualized culturally sensitive family plan that addresses the child's health, safety and well-being, which are the paramount concerns in making permanency decisions. Federal and state law and Department policy recognize guardianship as an important permanency option for children when neither family reunification nor termination of parental rights and adoption best serve the permanency needs of the child.

Guardianship provides the caregiver with the legal authority to make decisions on behalf of the child, the ability to care for the child without child welfare agency intervention, the opportunity to provide a safe and stable environment for the child without terminating parental rights and provides a permanency option for older children who do not want to be adopted. Guardianship provides the child with a sense of belonging, which is essential to the long-term well-being of that child.

The Department provides financial support to kinship guardian caregivers who require support and services for the children in their care. Any child who receives a kinship guardianship assistance payment is categorically eligible for Medical Assistance in the state where the child resides.

Guardianship assistance allows caregivers to receive financial reimbursement and other support services to help with the additional expense of caring for a child.

For the purposes of this policy, "kin" or "relative" means an individual who is related to the child by blood, marriage or adoption. In addition to relationships by blood, marriage or adoption, consideration may be given to placing a child with an individual, also considered to be "kin", who is part of the family support system such as a non-related godparent, caretaker, close family friend, neighbor, clergy or other adult who has a close and caring relationship with the child. Placement with members of the family support system holds many of the same benefits for the child as other kinship placements, particularly pertaining to the decrease in placement trauma and the maintenance of consistency in the child's life. Federal and state laws have been enacted to guide our practice in the area of kinship guardianship.

Guardianship recognizes the tradition in many cultures of caring for related children without changing family relationships. Federal and state statutes and regulations provide that preference should be given to relative caregivers.

The Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law (P.L.) 110-351, authorizes the Guardianship Assistance Program (GAP), a new title IV-E plan option for states and tribes to provide kinship guardianship assistance payments to relatives who

assume legal guardianship of children for whom they have cared while foster parents. This Act also requires the state to make reasonable efforts to place siblings removed from their home in the same foster care, adoption or guardianship placement, or facilitate visitation or ongoing contacts with those that cannot be placed together, unless it is contrary to the safety or well-being of any of the siblings. P.L. 110-351 further requires the Department to negotiate in good faith with any Indian tribal organization that requests to develop an agreement with the state to administer a Title IV-E kinship guardianship, foster care or adoption assistance program for payments and resources for administration, training, and data collection.

The Adoption and Safe Families Act of 1997 (P.L. 105-89) establishes a preference for the placement of a child with a fit and willing relative and allows states to practice concurrent planning through the identification of a permanent placement option for the child if reunification efforts are not successful. Legal guardianship is defined as “a judicially created relationship between a child and caregiver which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making”.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) requires the state to give preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that child protection standards are met.

The Indian Child Welfare Act (P.L. 95-608) expresses a strong preference for the placement of Indian children with kin and/or members of the tribe.

Rhode Island General Law (RIGL) 40-11-12 allows the Family Court to appoint a guardian child if the child has been placed in the care, custody and control of DCYF.

RI DCYF Legal Guardianship and Kinship Guardianship Assistance 11/16/2009

- _ RIGL 40-11-12.2 recognizes guardianship as a permanency plan for a child in DCYF care.
- _ RIGL 40-11-12.3 allows the state to provide guardianship subsidy.
- _ RIGL 42-72-8 allows the Department to share confidential information with caretakers.

Related Procedure

[Legal Guardianship and Kinship Guardianship Assistance](#)

Related Policies

[Adoption Subsidy](#)

[Clearance of Agency Activity](#)

[Complaints and Hearings](#)

[Criminal Records Checks](#)

[Interstate Compact on the Placement of Children \(ICPC\)](#)

[Kinship Care](#)

[Licensing of Foster Care Homes](#)