

Guardianship Training



JUDICIARY OF GUAM

WINGS Program

Working Interdisciplinary Networks of Guardianship Stakeholders

Objectives

- ❖ Identify the
 - ❖ role and rights of a ward
 - ❖ role and responsibilities of being a guardian
 - ❖ role and responsibilities of the court
- ❖ Be familiar with legal responsibilities
- ❖ Be familiar with financial responsibilities
- ❖ Be familiar with local resources available to guardians



Roles & Responsibilities





Ward

Your Role is to help the Court choose a guardian that will responsibly make decisions on your behalf and in your best interest (if you are able to).

You have the right to:

- ❖ Nominate your own guardian (if applicable)
- ❖ Communicate freely and privately with persons other than the guardian
- ❖ Have a guardian that acts in your best interest
- ❖ Have a guardian who is reasonably accessible
- ❖ Ask the court to modify or terminate the guardianship

Guardian

Your Role is to ensure the care of the Ward and act in their best interest at all times.

Your Responsibility is to:

- ❖ Respect and maintain the ward's individual rights and dignity
- ❖ Be reasonably accessible and maintain regular contact
- ❖ Encourage the development of maximum self-reliance and foster independence
- ❖ Inform the Court of future plans — especially those involving large purchases made with the ward's resources



Guardian

Your Role is to ensure the care of the Ward and act in their best interest at all times.

Your Responsibility is to (continued):



- ❖ Report to the court as directed (at least annually)
- ❖ Provide medical and dental insurance for the ward (if applicable)
- ❖ Attend a Guardianship Workshop/Training within 4 months after his/her appointment as a guardian

Guardian

Your Role is to ensure the care of the Ward and act in their best interest at all times.

As a Guardian, you CANNOT:

- ❖ Withhold important documents from the Ward (passport, food stamps card, public benefits card, etc.)
- ❖ Combine your assets with the ward's assets
- ❖ Give your guardianship powers and responsibilities away to someone else without permission from the Court
- ❖ Isolate the ward from community members who would positively contribute to the ward's life



Court

Their Role is to appoint a guardian based on the best interest of the ward.

Their Responsibility is to:



- ❖ Regulate and control the guardian in their management and disposition of the ward
- ❖ Ensure that the proposed Guardian(s) can provide financially for the ward or will responsibly and competently manage the ward's estate.

Legal Overview



Alternatives

- ❖ Joint Bank Account
- ❖ Representative Payee / Fiduciary
- ❖ Power of Attorney
- ❖ Revocable Living Trust
- ❖ Living Will / Advance Health Care Directive
- ❖ Legal Guardianship of an Adult



Remember:



You are removing
their constitutional rights.

Guardianship of the Person / Estate

- ❖ Talk to the Ward
- ❖ Determine the Appropriate Guardian
- ❖ Retain an Attorney / Refer to the OPG



Guam Bar Association
www.guambar.org
284 West Chalan Santo Papa
Hagåtña, Guam 96910
**by appointment*
(671) 989-4227



**Guam Legal Services Corporation –
Disability Law Center**
113 Bradley Place, Hagåtña, GU 96910
(671) 477-9811



Office of the Public Guardian
Old Court Building
110 West O'Brien Drive
Hagatna, Guam 96910
(671) 475-3173

File Inventory and Appraisement



- **Within three (3) months** after his appointment
- **At the end of one year** from the time of his appointment

Termination

- Death
- Petition to be Relieved
- Removal for Cause

CANCELED

Financial Overview





Overview

- ❖ What financial responsibilities do guardians have?
- ❖ What financial reports / forms are required by the courts and when?
- ❖ How can you access financial benefits which your ward is eligible to receive?
- ❖ How can you protect your ward from financial exploitation?

Financial Responsibilities of Guardians

Guardians' responsibilities for their ward's finances might include:

- ❖ Making decisions about financial affairs
- ❖ Accessing / operating bank accounts
- ❖ Paying bills
- ❖ Making investments
- ❖ Approving services needed by your ward



Fiduciary Responsibilities

What is a fiduciary?

Anyone named to manage money or property for someone else

❖ *Be sure to make decisions in partnership with any co-guardians*

Guardianship is a **fiduciary** relationship between guardian and ward.

The guardian in this fiduciary relationship is to practice **scrupulous good faith and candor** toward the ward. The guardian's rights and powers are to be exercised for the exclusive benefit of the ward.

FIDUCIARY = TRUST



Fiduciary Responsibilities

Duty 1: Act only in your WARD's best interest.

- ❖ Read the court order.
- ❖ Do what the court order says—and don't do what it says you should not do.
- ❖ As much as possible, involve your ward in decisions. Consider these three steps:
 1. Ask your ward what he/she wants. Your ward may be able to decide some things.
 2. Try to find out what your ward would have wanted.
 3. Do what you think is best for your ward.
- ❖ Avoid conflicts of interest.
- ❖ Don't borrow, loan, or give your ward's money/property to yourself or others.
- ❖ Avoid changing your ward's plans for giving away his/her money or property when he/she dies.
- ❖ Don't pay yourself for the time you spend acting as your ward's guardian, unless the court allows you to do so.

Fiduciary Responsibilities

Duty 2: Manage your ward's money and property carefully.

- ❖ Make an inventory *within 90 days*.
- ❖ File the inventory with the court.
- ❖ The court could require you to buy a bond.
- ❖ Protect your ward's property.
- ❖ Make a financial plan.
- ❖ Invest carefully.
- ❖ Pay bills and taxes on time.
- ❖ Cancel any insurance policies that your ward does not need.
- ❖ Collect debts.
- ❖ There's no place like home.



The image shows a close-up of a 'Monthly Budget' spreadsheet. The spreadsheet is divided into sections for 'PROJECTED MONTHLY INCOME', 'ACTUAL MONTHLY INCOME', and 'MONTHLY EXPENSES'. It includes columns for 'Projected Cost', 'Actual Cost', and 'Difference'. A black pen is resting on the bottom right of the spreadsheet.

Monthly Budget			
	Projected Cost	Actual Cost	Difference
PROJECTED MONTHLY INCOME			
Income 1			
Extra Income			
Total monthly income			
ACTUAL MONTHLY INCOME			
Income 1			
Extra Income			
Total monthly income			
MONTHLY EXPENSES			
Housing			
Mortgage or rent			
Phone			
Electricity			
Gas			
Water and sewer			
Cable			
Car maintenance			
Total			

Fiduciary Responsibilities

Duty 3: Keep your ward's money and property separate from yours.

- ❖ Separate means separate.
- ❖ Avoid joint accounts.
- ❖ Keep title to your ward's money and property in his own name.
- ❖ Know how to sign as guardian.
- ❖ Pay your ward's expenses from his funds, not yours.



Fiduciary Responsibilities

Duty 4: Keep good records – no matter how much money or property.

- ❖ Keep a detailed list of everything that you receive or spend for your ward.
- ❖ Keep receipts and notes, even for small expenses.
- ❖ Avoid paying in cash.
- ❖ Getting paid? If so, keep detailed records.
- ❖ File your accountings with the court.
- ❖ File a final accounting after your ward dies.



Guardianship Inventory



- ❖ Property – detailed list with description and supporting documents
- ❖ Checking/ Savings/ Investments – list per account: Institution, type, of account, account number, balance
- ❖ Income – Source, frequency, amount, etc.
- ❖ Expenses – list of all debt in ward's name (institution, type of debt, overall balance, monthly payment required)

MONTH: _____, 2018

[illegible]

Financial Benefits for Your Ward

- ❖ Government and community-based agencies provide services that your ward may be entitled to or eligible for based on age or special condition, such as Social Security, Veteran benefits, or aging services.
- ❖ Keep in mind that some government agencies require a special appointment or other legal form. Contact each agency for more information.



Protecting Your Ward from Financial Exploitation

Look out for these common signs of financial exploitation:

- ❖ Some money or property is missing.
- ❖ Your ward tells you that some money or property is missing.
- ❖ You notice sudden changes in your ward's spending or savings.
- ❖ Your ward says he/she is afraid or seems afraid of a relative, caregiver, or friend.
- ❖ A relative, caregiver, friend, or someone else keeps your ward from having visitors or phone calls, or does not let him/her speak for himself, or seems to be controlling his/her decisions.



Protecting Your Ward from Financial Exploitation

Follow these tips to protect your ward from consumer scams:

- ❖ Put your ward's phone number on the National Do Not Call Registry. Go to www.donotcall.gov or call 1-888-382-1222.
- ❖ Don't share numbers or passwords for your ward's accounts, credit cards, or Social Security.
- ❖ Be wary of "great deals."
- ❖ Watch out for deals that are only "good today" and that pressure you to act quickly.
- ❖ Never pay up front for a promised prize. Suspect a scam if you are required to pay fees or taxes to receive a prize or other financial windfall.



Protecting Your Ward from Financial Exploitation

Follow these tips to protect your ward from consumer scams:

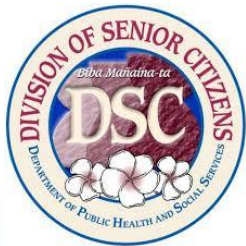
- ❖ Watch for signs your ward already has been scammed. Check for:
 - ❖ Excessive mail or e-mail for sweepstakes
 - ❖ Payments to people you don't know, especially in other states or countries
 - ❖ Large bank withdrawals, especially if accompanied by someone he recently met
 - ❖ Difficulty explaining how money was spent
 - ❖ Inability to pay for food, medicine, or utilities, etc.



Protecting Your Ward from Financial Exploitation

If you feel your ward has been financially exploited ...

File a report ...



Department of Public Health and Social Services,
Division of Senior Citizens,
Bureau of Adult Protective Services
735-7415 / 7421

Or call ...



Office of the Attorney General
Consumer Protection Office
475-3324 ext. 171

Tips for Guardians

- ❖ Remember, it's not your money.
- ❖ Always act in your WARD's best interest, not YOURS.
- ❖ If possible, involve your ward in decisions.
- ❖ Remember that you are an agent of the court. The court has trusted you, so you must be ready to answer to the court as required and as needed.





The Guardian as an Advocate

An **Advocate** is a person who speaks and acts on behalf of another.

By its very nature, the guardian and ward relationship should be the relationship of and advocate, **the guardian**, speaking and acting on behalf of another person, **her or his ward**.



Three Ward Needs and the Guardian's Responsibilities

My Ward Needs to be **Heard**.

As guardian, I need to **Listen**

and, I need to cause others to listen to me, to benefit my ward.

My Ward Needs to be **Informed**.

As guardian, I need to **provide Information**

and, I need to cause others to provide information to me that is beneficial to my ward.

My Ward Needs to **make Decisions**.

As guardian, I need to **offer Choices**

and, I need to cause others to offer choices beneficial to my ward.

Resources Overview





Resources – ADULTS:

Adult Protective Services (APS), part of Division of Senior Citizens

- ❖ Facebook www.facebook.com/guamdphss
- ❖ Division of Senior Citizens Forms: www.govguamdocs.com/dphss/index_dphss
- ❖ APS Referral form: www.govguamdocs.com/dphss/docs/SeniorCitizens/APSFY-2015_ReferralForm_fse.pdf

Catholic Social Service www.catholicsocialserviceguam.org

- ❖ Facebook: www.facebook.com/Catholic-Social-Service-Guam-622314777796899
- ❖ www.catholicsocialserviceguam.org/individuals-with-disabilities.html
- ❖ www.catholicsocialserviceguam.org/in-home-services.html

Division of Integrated Services for Individual Disabilities

www.disid.guam.gov

Guam Behavioral Health and Wellness Center gbhwc.guam.gov

- ❖ Community Support Services (CSS): gbhwc.guam.gov/services/community-support-services



Resources – ADULTS:

Guam Legal Services Corporation – Disability Law Center

www.lawhelp.org/gu

Facebook: www.facebook.com/glscdlc/

Guma' Mami, Inc. www.gumamami.net

Guam Memorial Hospital Authority <http://gmha.org/>

Guam Regional Medical City www.grmc.gu

Guam Self Represented Litigants guamselfhelp.org

Guardianship of a Disabled Adult (Parent Petitioner):

www.lawhelp.org/gu/resource/guardianship-of-a-disabled-adult-parent-petit



Resources – ADULTS:

Health Services of the Pacific www.hspguam.com

****NOTE: SITE IS STILL BEING BUILT, INCOMPLETE WEBPAGES**

Office of the Public Guardian Guam www.guamcourts.org/Office-of-the-Public-Guardian/Office-of-the-Public-Guardian.html

Form: <http://www.guamcourts.org/Office-of-the-Public-Guardian/images/OPG-Intake.pdf>

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Welcome to the Judiciary of Guam

Mission Statement

The Judiciary's purpose is to administer justice by interpreting and upholding the laws, resolving disputes in a timely manner, and providing accessible, efficient, and effective court services.

Vision Statement

The Judiciary of Guam will provide the highest quality of justice services, thus enhancing public trust and confidence in Guam's independent and co-equal branch of government and becoming a model of judicial excellence. The courts will:

1. Resolve matters and provide court services in a timely and efficient manner;
2. Be user friendly, understandable, accessible, and affordable to court users through the use of innovative resources and practices;
3. Have sufficient resources to support operations, programs, and services;
4. Develop highly skilled and satisfied judges and personnel; and
5. Be cost effective, accountable, and fiscally responsible.

Public Notices

Notice to Court Patrons

IMPORTANT

The document below is a list of persons who have unpaid/unanswered traffic citations filed with the Traffic Bureau, Superior Court of Guam from January 1, 2007 – December 31, 2017.

How can we improve?



Thank you!