

<b>WYOMING DEPARTMENT OF FAMILY SERVICES</b>	<b>CHAPTER:</b> Permanency <b>POLICY:</b> Legal Guardianship <b>POLICY NUMBER:</b> 3.3
<b>EFFECTIVE DATE:</b> January 14, 2013	<b>Current:</b> 1/13 <b>Revised:</b> 10/02, 3/10, 1/13 <b>Original:</b> 2/99

**A. Purpose**

A legal guardian is an individual who is authorized by the court to control the person of a minor. Guardianship is designed to provide protection to the child(ren)/youth who is deprived of the natural guardianship of his/her parents.<sup>1</sup> Legal guardianship involves the transfer of legal responsibility for a child(ren)/youth in the Department of Family Services (DFS) custody to a private caregiver who becomes the legal guardian of the child(ren)/youth.

Legal guardianship shall not be initiated until reasonable efforts have been exhausted to reunite the child(ren)/youth with their family, and DFS documented adoption is not in the best interest of the child(ren)/youth. DFS may proceed for good cause to seek a legal guardian without parental consent provided legal notice is given of the legal guardianship petition hearing.<sup>2</sup>

**B. Procedure**

The DFS Caseworker shall:

1. Complete a *Family Service Plan (F-SS9b)* with guardianship as the permanency goal once guardianship is identified as the best permanency option for the child(ren)/youth.
2. Immediately make a referral for legal assistance to establish the guardianship to the attorney general's (AG) office when ordered by the court to proceed to legal guardianship or the decision to proceed to legal guardianship is identified as the permanency goal.<sup>3</sup>
3. Assure child(ren)/youth is currently placed with an appropriate prospective legal guardian, or if the current placement is not interested in doing a legal guardianship, make changes as appropriate. DFS gives preference to an adult relative caregiver over a non-related caregiver when determining a placement for a child(ren)/youth, provided the adult relative caregiver meets all relevant child protection standards.<sup>4</sup>
4. Assure all of the following requirements are met before the legal guardianship is finalized:
  - a. Child(ren)/youth is under 18 years of age and has been in the legal custody of DFS immediately prior to establishing the legal guardianship;
  - b. The child(ren)/youth has resided with the prospective legal guardian for at least six (6) months immediately prior to filing the petition for legal guardianship and entering into a legal guardianship. However, the six (6) months placement requirement may be waived for sibling groups when at least one (1) sibling meets all legal guardianship requirements;

<sup>1</sup> W.S. 3-1-101 through 3-1-111

<sup>2</sup> W.S. 3-2-102

<sup>3</sup> Establishing a Legal Guardianship Policy 3.3.1

<sup>4</sup> Diligent Search Policy 2.2; and Authority for Placement and Placement Process Policy 2.1

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- c. Reunification of the child(ren)/youth with his/her parent(s) and adoption has been ruled out as permanency goals despite reasonable efforts have been made to reunite the family or to seek adoption of the child(ren)/youth;
- d. The child(ren)/youth has a strong attachment to the prospective legal guardian(s) and the prospective legal guardian(s) has a strong commitment to caring permanently for the child(ren)/youth;
- e. Child(ren)/youth age 14 years of age and older has participated in creating the legal guardianship arrangement and signed the Family Service Plan;<sup>5</sup>
- f. The legal guardian(s) is able to support the child(ren)/youth financially or is able to with the assistance of a subsidy or other resources which may be available to the child(ren)/youth.<sup>6</sup>
- g. In most cases, the prospective legal guardian(s) is already an approved adult relative home or a certified foster home, and the following requirements have already been met. If not, the requirements shall be completed. Approval of a prospective legal guardianship home, at a minimum shall include:
  - 1) A completed application from the family *Application to Care for Children (F-SS61)*;
  - 2) The prospective legal guardian(s) must be over the age of 21 years unless the age requirement has been waived by the DFS District Manager (i.e. establishing a legal guardianship with an adult sibling who is 18 – 21 years of age is in the child(ren)/youth’s best interest);
  - 3) Five (5) references which consist of two (2) from relatives and three (3) from non-relatives;
  - 4) Home study;
  - 5) Completion of a *Health and Safety Checklist (F-SS54)*; and
  - 6) All background check requirements for all adults living in the home shall be completed.
5. Explore with the prospective legal guardian(s) the types of support and resources which may be available to him/her, or he/she needs including, but not limited to, TANF/POWER, guardianship subsidy, Medicaid, child support, and/or social security.
6. Have the prospective legal guardian(s) complete the *Application for Guardianship Subsidy and/or Waiver (F-SS47)*.<sup>7</sup>

<sup>5</sup> Family Service Plan 1.6

<sup>6</sup> Guardianship Assistance/ Subsidy Agreement Policy 3.3.2

<sup>7</sup> Guardianship Assistance/Subsidy Agreement Policy 3.3.2