



# Guardianship Best Practices 22nd Judicial Circuit of McHenry County



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The remainder of this booklet is meant to help you, the Guardian, understand your role and responsibilities and provide you with information so you can be successful in your duties, while protecting your ward.

## Definitions

- **Guardian:** This is a person chosen by the court to help take care of someone who can't make decisions for themselves, like a younger child or an adult who may be very sick or has a disability.
- **Letters of Office:** An official document that explains and authorizes what a guardian can and cannot do
- **Incapacitated Person (or "the ward"):** This is the person who needs help because they can't take care of themselves or make decisions on their own.
- **Guardian ad litem (GAL):** This is someone appointed by the court who talks to the person, who might need a guardian and the proposed guardian, and then reports to the court what they observe and think should happen.
- **Annual Report:** The Annual Report is a yearly report and is like a yearly report card that a guardian has to fill out for the court. It tells the court how the person they're taking care of is doing, what kind of decisions have been made in regards to the ward, whether the guardianship should continue and if the guardian is will to continue their duties. This helps make sure that the guardian is doing a good job and taking good care of the person who needs help.
- **Annual Accounting:** If someone is in charge of another person's money because that person can't handle it themselves, the guardian must write down how they used the money throughout the year. Then, the guardian must report to the Court all income the ward received during the year and how the ward's money was spent to prove the guardian is using the money carefully and correctly.
- **Inventory:** It is very similar to the Annual Accounting, but inventory is property. It is a list of property that the ward has and such as clothes, vehicles, home, basically anything that belongs to the ward. This gets reported to the Court within 60 days of appointment and then every year to make sure that the guardian isn't taking property that belongs to the ward.
- **Asset:** An asset is something that is owned by the ward, it can be something that you can touch like clothes, phone, game console, or something you can't, like money in a bank. Assets are things of value that must be reported to the Court each year.

## Definitions Continued

- **Cash Receipts:** Cash receipts is the money the disabled person or ward receives throughout the year. This money could come from Social Security, interest on a bank account, or money received from the sale of property, employment or gifts.
- **Cash Disbursements:** Is just a fancy way of saying “money spent.” This is the amount of money spent by the ward or spent by the guardian to take care of the ward. Expenses are anything that money is spent on such as, rent, utilities, food, clothing, medical bills, etc.
- **Cash on Hand Beginning of Accounting Period:** "Cash on hand at the beginning," is the starting point for keeping track of money in a bank account at the beginning of a new year or period. It is the amount that you start with, or the amount that is in the account, on a specific day at the beginning of the reporting period.
- **Ending Balance:** It's the amount of money you have in an account after a certain period, like after spending some and maybe saving more. It shows you how much is left at the end of the month or year.



**A guardian is someone chosen by, and appointed by the court to take care of money matters for a person who has a disability or can not make financial decisions on their own.**

## **Congratulations on your appointment as a guardian**

This is an important role, and it shows that the Court trusts you to take good care of someone who needs help managing their daily life and finances. Being a guardian is a big responsibility, but it's also a chance to make a positive difference in someone's life.

As a guardian, you'll be responsible for looking after the well-being of your ward—the person you're taking care of. This means making sure they have what they need every day, from food and clothing to healthcare and comfort. It's like ensuring that the ward is well cared for, only now, it's also your official duty to provide that care.

One of your key responsibilities is managing your ward's money wisely. You'll need to keep track of all the cash that comes in, known as cash receipts, like money from a job they might have, social security benefits, or other income. You'll also need to record every expense, or cash disbursements, which is the money you spend on behalf of your ward. This includes everything from rent and groceries to medical bills and personal items.

Each year, you have to prepare an annual report. This report shows all the money that came in and went out during the year. It also lists all of your ward's assets, like any property or savings they own. Plus, the report should include information about how your ward has been doing over the past year—like any major health issues or changes in their living situation.

It's crucial to do your job well and be honest in managing your ward's finances. If a guardian does not report accurately, spends money carelessly, or worse, takes money from the ward's account for their own use, there can be serious consequences. The court can remove a guardian who is not doing their job properly, and legal actions can be taken if money is stolen. It's about protecting those who can't protect themselves and ensuring they have a safe and stable life.

Being chosen as a guardian is a sign of great trust and confidence in your abilities. It's a big job, but it's also a chance to do something truly meaningful for someone else. Good luck, and remember, the role you're taking on is both noble and vital.

The rest of this booklet is meant to provide you with information to aid you in being successful as a guardian.

## **You have been appointed Guardian.....Now What?**

In Illinois, the law says that guardians need to go through special training that teaches you what your duties are and what rights the person you are looking after has. Guardians must finish this training and file with the McHenry County Circuit Clerk a certificate that says you have completed the training within one year after you officially start your role.

This training is available online and can be found by going to the Illinois Guardianship and Advocacy Commission website at:

<https://gac.illinois.gov/osg/guardianship-training.html>

Additionally, according to the Probate Act of 1975, when someone is given full guardianship, the guardian has to complete and submit a few important documents. You need to provide a list (inventory) of all the assets of the person you are caring for within 60 days of your appointment. You also need to make a report every year about how the ward is doing and a detailed account of the money spent and received each year.



## Ten Guardianship Best Practices

1. Understand your responsibilities.
2. Always act in the ward's best interest.
3. Be patient.
4. Involve the ward in decision making (when appropriate).
5. Keep the ward's assets separate.
6. File reports timely.
7. Never use cash to pay for something.
8. Checks are discouraged because they are difficult for the court to track.
9. Stay away from situations where your personal interests might conflict with your duties and avoid any actions that might look like they could be a conflict of interest.
10. Take advantage of the 22nd Judicial Circuit's Guardianship Accounting Program.





## **Understand your responsibilities.**

Understanding your responsibilities is very important because it helps you take good care of the person you are looking after. Knowing what your job involves both legally and ethically helps you make choices that are best for the individual you care for, rather than choices that might benefit you. This stops conflicts and misuse of your position.

If you are appointed as guardian of a person and estate you, you will handle both the personal and money matters of the person you care for. You must to be very careful and clear about managing money, making sure it's used right for the person's care and not wasted. Knowing the rules about money management and how to report it keeps everything open and clear, so everyone knows the money is being handled right.

Being a good guardian also means being great at talking to the person you are caring for, doctors, and others involved. Good communication helps you coordinate the best care and services. You should also listen to what the person you are caring for wants, helping maintain their dignity and independence.

You have to follow specific laws and court rules that tell you what you can and cannot do. Understanding these rules helps you avoid making mistakes that could get you into legal trouble and harm the person you are looking after. Staying updated on any changes in these laws is also a part of your job.

Finally, understanding your job as a guardian helps you provide stability and support, which is really important. Many times, guardians are not just legal helpers but also key sources of emotional support. By truly committing to your role, you can greatly improve the life of the person who you care for, making you feel safer and happier.





## **Always act in the ward's best interest.**

It's crucial for you to always act in the best interest of your ward because, fundamentally, you are responsible for someone who can't fully look after themselves. This responsibility means making decisions that prioritize the health, safety, and overall well-being of the person in your care. When guardians consistently make choices that benefit their wards, it ensures that these individuals receive the proper care and support they need, which they might not be able to secure on their own.



Acting in the ward's best interest also helps build trust. For someone who relies on another person for major decisions, feeling secure and confident in their guardian's decisions is key to their emotional and mental health. A guardian's commitment to their ward's welfare can significantly impact the ward's sense of safety and stability.

Moreover, guardians who act with their wards' best interests at heart are more likely to maintain ethical standards and transparency in their role. This approach prevents conflicts of interest and potential abuses of power. When guardians prioritize their wards over any personal gain, they uphold the integrity of the guardianship arrangement and ensure that all actions and decisions are made for the right reasons.

Legally, acting in the best interest of the ward is a guardian's responsibility. Legally, guardians are expected to act in the best interests of their wards, and not doing so can get them into trouble, including possibly losing their guardian role. The law appoints guardians to protect those who can't protect themselves, making sure the guardians do their jobs right.

Lastly, it's just the right thing to do. Being a guardian means you have a big opportunity to positively impact someone's life. By always thinking about what's best for the person they're caring for, guardians not only meet their needs but can also help them have a better, happier life.

## **Be patient.**

Being a guardian means having a lot of patience because the job can be very tricky and sensitive. People who need guardians might have conditions that make it hard for them to understand things or they might react in ways that are unexpected. A guardian who is patient can handle these situations calmly, making sure to explain things clearly and provide comfort. This patience not only helps in managing everyday tasks but also helps build trust and a strong, positive relationship.

Patience also helps guardians make better decisions. When it comes to handling someone else's money or legal matters, rushing can lead to mistakes. By taking the time to really think things through, get advice if needed, and consider how their choices will affect the person in the long run, guardians can make sure they're doing what's best. Being thoughtful and careful like this is a big part of being a good guardian. Lastly, being patient helps keep things calm and less stressful for the person you care for. For someone who might feel unsure or worried about their situation, seeing their guardian stay patient and steady can be very reassuring. This shows that you are reliable and caring, which is really important for making the person feel safe and looked after.

## **Involve the ward in decision making (when appropriate).**



Including a ward in the decision-making process is important for several reasons. Most importantly, it respects their dignity and autonomy. Even if someone needs a guardian, they often still have opinions and preferences that matter. By involving them in decisions, especially those that directly affect their lives, guardians show respect for their ward's sense of self. This helps maintain their identity and self-esteem, which are crucial for anyone's emotional well-being.

Involving wards in decisions helps ensure that the choices made truly reflect their needs and wants. Guardians might think they know what's best, but without input from their wards, they can miss important details about their preferences and comfort. By listening to what the ward has to say, guardians can make more informed, effective decisions that align more closely with the ward's actual desires and life goals.

Also, including wards in the decision-making process can enhance their

mental and emotional health. Being part of decisions helps individuals feel more in control of their lives and less like passive recipients of care. This can boost confidence and decrease feelings of helplessness or depression, which are common among those who rely heavily on others for support.

This practice can improve the relationship between the guardian and the ward. When wards see that their opinions are valued, trust grows. They're more likely to view their guardian as an ally and supporter rather than someone who simply dictates what they can and cannot do. This stronger relationship can make daily interactions smoother and more positive.

Encouraging wards to participate in decisions can also help them develop or maintain decision-making skills. For individuals whose ability to make decisions isn't severely impaired, practicing these skills can be vital. It helps them keep their cognitive abilities as sharp as possible and might even lead to increased independence over time.

Lastly, involving wards in decisions can provide valuable lessons in responsibility. When they understand the consequences of choices and see the outcomes of decisions they've participated in, they learn about cause and effect. This understanding can lead to better decision-making in the future and a greater awareness of their role in their own life, fostering a sense of responsibility and participation.

### **Keep the ward's assets separate.**

It's really important for guardians to keep their ward's money and assets separate from their own. Doing this helps ensure that all the decisions made about the ward's money are clear and fair. When a guardian mixes their personal finances with those of the ward, it can become difficult to tell which expenses are for the guardian and which are for the ward. Keeping them separate prevents any confusion and makes sure that every penny spent is easily trackable and justifiable as being for the benefit of the ward.



Separate accounts also protect the ward from any potential financial misuse. If a guardian's financial situation gets complicated or they face debts, having distinct accounts ensures that the ward's funds are not wrongly used to settle the guardian's personal financial issues. This separation acts as a shield for the ward's assets, keeping them secure no matter what financial problems the guardian might encounter.

Having separate financial accounts makes it much easier during tax time or when the Court requires financial reports. Guardians are required to show detailed records of how the ward's money is spent and managed. If the finances are mixed,



proving what was spent on the ward can become a complex and messy process. Separate accounts mean clear, straightforward records that can be easily presented and reviewed by courts or other overseeing bodies.

Another benefit of keeping money separate is that it upholds ethical standards. It shows that the guardian is acting professionally and with integrity, focusing solely on the welfare of the ward without any personal gain. This transparency builds trust with the court system and any family members or interested parties who might be keeping a watchful eye on the ward's welfare.

When money isn't commingled, it's easier to manage spending effectively. Guardians can plan and monitor the ward's budget more accurately and make financial decisions that are in the ward's best interest. They can see exactly how much money is available for different needs and ensure that the funds are used wisely and responsibly. Keeping things separate simplifies the whole process of financial oversight, making it easier to handle the ward's assets correctly and carefully.

### **File reports timely.**

Filing reports on time is crucial for guardians because it ensures that the court stays informed about the ward's well-being and the management of their affairs. These reports often include details on the ward's health, living conditions, and how their finances are being handled. When guardians submit these reports as required, it provides a clear and current picture of the ward's situation, helping the Court see that the guardian is fulfilling their duties properly. Timely reporting helps maintain the trust and confidence of the court and all parties involved in the guardianship.

Timely reporting can prevent legal problems for the guardian. If guardians are late or fail to file the required reports, it can raise suspicions about their management practices or suggest neglect of their duties. This could lead to investigations or even legal actions against the guardian, possibly resulting in them being replaced or even being charged with a crime. Staying on schedule with reports shows that the guardian is organized and committed to their role, avoiding unnecessary legal complications.

Regular and on-time reporting also ensures transparency in the guardianship process. These reports allow family members and other interested parties to stay updated on the ward's status and how their assets are being managed. This openness helps prevent misunderstandings and disputes among family members or between the guardian and the Court, fostering a smoother management of the ward's needs and resources.

Lastly, filing reports on time helps guardians themselves manage their responsibilities more effectively. Preparing these reports can be a complex task that includes gathering detailed information and financial records. By adhering to a regular schedule, guardians can better organize and review the ward's affairs periodically, which can help catch and correct any issues early. This not only makes managing the ward's affairs more manageable but also ensures that the guardian is always prepared for unexpected reviews or questions about their management.

### **Never use the ward's cash to pay for something.**

Using a ward's cash to pay for things directly can be problematic for a few reasons. First, cash transactions don't automatically generate a record like electronic payments do. When cash is used, there's no automatic proof of what it was spent on, which makes it difficult to keep track of where the money goes. This can be a big issue if anyone, such as the court or family members, wants to see a detailed account of expenses. Without clear records, it's hard to show that all the money was spent appropriately, in the best interest of the ward.

Secondly, cash is hard to trace. Unlike payments made with a debit or credit card that show up on statements, cash can disappear without a trace once it's handed over. This lack of traceability can lead to suspicions or concerns about whether the funds are being used correctly or, worse, if they're being misused. It's crucial for guardians to maintain trust and show they are managing the ward's money responsibly, and using cash makes this challenging.

Furthermore, when cash is used, it's easy for mistakes to happen. It can be lost, stolen, or simply miscounted. Also, when it comes time to report how the ward's money has been managed, cash expenditures require receipts or other forms of proof to back them up. If receipts are missing or incomplete, accounting for the cash accurately becomes very difficult. This can lead to discrepancies in financial reports and potentially raise questions about the guardian's management practices, which could have legal or financial repercussions for the guardian.



**Checks are discouraged because they are difficult for the court to track.**



Electronic payments are better than checks because they create clearer, more immediate records. When you pay electronically, the bank or payment service keeps an instant record of the payment, including details like the date, the amount, and who received the money. This digital record is automatically saved, reducing the chance of errors and making it easy to keep track of every penny spent.

This instant and precise record-keeping makes managing finances more straightforward and accurate, which will make it easier when you are doing the annual accounting for the Court.

Another big plus of electronic payments is that they're safer than checks. Checks can get lost, stolen, or even tampered with, which can lead to money being taken from the ward's account without permission. Electronic payments, on the other hand, are protected by several security measures like encryption, which helps prevent unauthorized transactions. If there's any suspicious activity, it's easier to track and sort out problems with electronic payments than with checks.

Electronic payments also help guardians manage money better. Many online payment systems automatically sort expenses into categories, making it easy to see how money is being spent. This can be really helpful for guardians to make sure they're sticking to the budget set for taking care of the ward. These tools also help keep everything organized, giving a clear view of spending patterns and helping plan future expenses more effectively.

Finally, electronic payments are just faster and more convenient than checks. Checks may have to be physically taken to the bank and can take days to clear, but electronic payments are processed quickly. Also, checks are no longer accepted everywhere because they are not as reliable as an electronic transfer. This speed means bills for important things like medical care or other services can be paid on time, ensuring that there's no interruption in what the ward needs. This makes electronic payments a much better option for guardians looking after someone's financial matters.



## Conflicts of Interest.

**Stay away from situations where your personal interests might conflict with your duties and avoid any actions that might look like they could be a conflict of interest.**

Guardians have a big responsibility to make decisions that are best for the person they're taking care of, not for themselves. It's really important for guardians to avoid any situations where their own interests might clash with their duties. For example, a guardian shouldn't hire their own business to do work for the ward because it might not be the best choice or the best price. This kind of situation can make it look like the guardian is trying to benefit themselves instead of doing what's best for the ward.

Sometimes, even if a guardian isn't actually doing anything wrong, it's important to avoid situations that might look suspicious. This is what's known as avoiding the appearance of a conflict of interest. If others see a guardian making choices that could seem self-serving, it can lead to doubt and mistrust. This might prompt investigations or challenges that can disrupt the care of the ward. That's why it's vital to keep personal and professional decisions separate and transparent.

For a guardian, being transparent means openly sharing information about decisions and actions. For instance, if a guardian is considering a service that involves a family member or friend, they should be clear about the relationship and why that option is in the best interest of the ward. They might even want to get approval from a court or an overseeing body to make sure everything looks appropriate.

Ultimately, the role of a guardian is to act with the utmost integrity and prioritize the welfare of the ward above everything else. By staying away from any conflicts of interest and ensuring their actions are transparent and clearly in the best interest of the ward, guardians can maintain a trustworthy and effective relationship. This not only helps protect the ward's well-being and assets but also upholds the guardian's reputation and ability to perform their duties without complications.





## **Take advantage of the 22nd Judicial Circuit's Guardianship Accounting Program.**

The 22nd Judicial Circuit developed the Guardianship Accounting Program (GAP) to aid guardians in developing the annual report and annual accounting.

The issue of financial exploitation by court-appointed guardians is becoming a serious problem. This happens when a guardian, who is supposed to help someone who can't take care of themselves, takes advantage of their position to steal or wrongly use the person's money. This kind of financial abuse is a serious matter that needs strong and varied solutions. It's up to the courts and society as a whole to step up and protect vulnerable individuals, and to make sure those who commit this abuse are held responsible.

Often, this kind of exploitation isn't obvious and happens gradually, which makes it hard to spot. Financial abuse can look like a guardian moving assets to their own name without permission, buying things for themselves instead of for the person they're supposed to protect, or not explaining how they're spending the ward's money. These actions can really hurt the financial security and general well-being of the person being taken advantage of.

The Court has a very important job in watching over these guardianship situations. It's the court's responsibility to make sure guardians are doing their jobs right and not taking advantage of the people they're supposed to protect.

GAP is there to help you, and make your life as a guardian easier. This guide-and-file tool offers several advantages for guardians:

- It provides a step-by-step filing process that helps guardians complete their paperwork accurately, reducing the likelihood of mistakes.
- Guardians can safely import bank transactions directly from their bank through a secure web interface, which cuts down on the need to manually enter data.
- The tool helps save time by making report compilation and correction faster, and it reduces the need for guardians to go to court to give extra information or explanations.
- All reports are formatted consistently, which speeds up the review process.
- The tool includes automated checks to ensure the reports are accurate.
- This leads to more precise information being available for the court.
- It also boosts public trust by making justice more accessible and improving the court experience.

- It's easier for guardians to follow the rules: They can connect a bank account once and have reports generated automatically.
- Every transaction is recorded down to the cent, which minimizes errors in accounting.

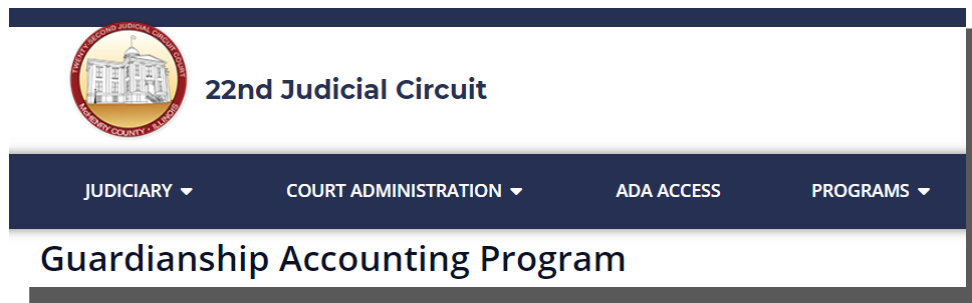
Guardians can attach receipts and organize their transactions, but you cannot alter the transaction details.

To access the Guardianship Accounting Program use the following link:

<https://gap.mchenrycountyil.gov/>

There is even an instructional video which will walk you through the entire process of entering information, linking the financial institution and filing the appropriate reports. To view the video, use the link below:

[https://www.youtube.com/watch?v=-584mUxkT\\_M](https://www.youtube.com/watch?v=-584mUxkT_M)



If you have questions about GAP or about guardianship accounting and reporting, please feel free to contact Court Administration, however it is important that you understand that employees of the court cannot provide you with legal advice or complete your responsibilities for you. If you have questions call:

**1-815-334-4385**

On behalf of the 22nd Judicial Circuit of McHenry County, we would like to extend our deepest gratitude for your dedication and service as guardians. Your commitment to the well-being and interests of your ward exemplifies a community spirit that is both admirable and essential. Serving as a guardian is no small task; it requires patience, compassion, and resilience. We recognize and appreciate your willingness to undertake such a significant responsibility, making a profound difference in the lives of those you protect and support.

Your role as guardian is crucial, not just in the life of your ward but also in upholding the values and laws of our community. We see this as a valuable and worthwhile endeavor, one that strengthens the very fabric of our society. As you continue in your roles please remember that what you do every day contributes to the greater good, offering security and guidance to those who depend on you the most. We want you to know that the Court is not just a regulatory body, but a source of support for you. We are here to assist you in fulfilling your duties effectively. It is our goal to make your role as smooth and clear as possible, providing help and resources whenever they are needed. While we cannot provide legal advice, we will always provide guidance to legal resources, clarification, and support as you navigate the responsibilities of guardianship.

However, it is also our duty to ensure that the rights and well-being of those under guardianship are fully protected. This means we are here to hold guardians accountable for their actions, ensuring that they meet the standards and obligations expected of them. We view this not as an adversarial oversight but as part of a collaborative relationship. Accountability ensures that everyone's efforts align with the law and the best interests of the ward.

We thank you again for your service and dedication. The role of a guardian is a noble one, filled with challenges, but also with great rewards. Remember that your efforts are truly valued, and you are making a tangible difference. Let's work together to uphold the dignity and rights of those you serve, ensuring they receive the best care and protection possible.

