

Rules of Superintendence Applicable to Guardianships



R.F. MEYER & ASSOCIATES LLC

Pre-Appointment Education – Rule 66.06



- 6 hour guardian fundamentals course
- <http://www.supremecourt.ohio.gov/Boards/judCollege/adultGuardianship/fundamentals.asp>
- Must be completed prior to appointment or within six months thereafter
- Guardians appointed prior to June 1, 2015 have until June 1, 2016 to complete 6 hour guardian fundamentals course
- Court can waive this requirement

Continuing Education Requirement – Rule 66.07



- Guardian must complete at least 3 hours of continuing education, annually.
- Guardian must file a report by January 1st annually documenting compliance with continuing education requirement.
- Guardians who fail to comply are not eligible for new appointments until requirement is satisfied.
- If failure to report last 3 years guardian must complete 6 hour fundamentals course again to be eligible to serve as guardian again.

General Responsibilities of Guardian – Rule 66.08



- (A) Obey all Court orders, perform duties in accordance with local rules, state law and federal law
- (B) Applicant must meet with proposed ward at least once prior to appointment hearing
- (C) Immediately report abuse, neglect, exploitation to court and adult protective services

General Responsibilities of Guardian – Rule 66.08



- (D) Seek to Limit or Terminate the Guardianship if:
 - Ward's ability to make decisions and function independently has improved
 - Less restrictive means are available
 - A plenary guardianship is no longer in the best interest of a ward
 - A ward has died

General Responsibilities of Guardian – Rule 66.08



- (E) Change of residence and the reason for the change, if practicable 10 days prior to the move. If move is to more restrictive setting or outside the county, court must approve unless a delay in authorizing the change would impact the health and safety of the ward.
- (F) Guardian must seek approval of probate division before filing suit for the ward.

General Responsibilities of Guardian – Rule 66.08



- (G) Submit an annual plan as addendum to guardian's report. Report to include goals for meeting ward's personal and financial goals. Mandatory for guardian of person. Court may require a guardian of the estate to file report.
- (H) All guardians with 10+ wards must register annually with the court.

General Responsibilities of Guardian – Rule 66.08



- (I) Compensation is subject to Rule 73. Guardian receiving fees outside guardianship shall report to the court the source and entity. Guardian must refuse incentives from direct service provider.
- (J) Avoid casual or apparent conflict of interest. Report all actual or apparent conflicts of interest for court to determine if a waiver is in the best interest of the ward.

General Responsibilities of Guardian – Rule 66.08



- (K) Within 3 months of appointment, file an inventory (list) of ward's important legal papers and their location
 - Estate planning documents
 - Advance directives
 - Powers of attorney

Check local rules to see if guardian is required to deposit a ward's original will with the Court.

Responsibilities of Guardian to Ward – Rule 66.09



- **(A) Professionalism, Character, Integrity**

- Act in a manner above reproach
- Avoid financial and sexual exploitation
- Avoid any other activity not in the best interest of the ward

- **(B) Exercise Due Diligence**

- by making decision in best interest of the ward which includes communicating with the ward and being fully informed about the implications of the decisions.

Responsibilities of Guardian to Ward – Rule 66.09



- **(C) Least Restrictive Alternative**
 - Make a choice or decision that best meets the needs of the ward while imposing least limitations on ward's rights, freedom, ability to control ward's environment.
 - May seek and consider an independent assessment of ward's functional ability, health status, and care needs.
 - Court may approve something other than a least restrictive alternative.

Responsibilities of Guardian to Ward – Rule 66.09



- **(D) Person Centered Planning**
 - Advocate for services focused on ward's wishes and needs
 - Strive to balance ward's maximum independence and self-reliance with the ward's best interest

Responsibilities of Guardian to Ward – Rule 66.09



- (E) Ward's Support System
 - Strive to foster and preserve positive relationships in ward's life unless a relationship is substantially harmful to ward.
 - Be prepared to explain the reasons for severing a relationship

Responsibilities of Guardian to Ward – Rule 66.09



- **(F) Communication with Ward**
 - Strive to know wards preferences and belief system
 - Seek information from ward's family and friends
 - Meet with the ward at least once a quarter or as determined by the probate court
 - Communicate privately with the ward
 - Assess the ward's physical and mental conditions and limitations

Responsibilities of Guardian to Ward – Rule 66.09



- **(F) Communication with Ward (cont.)**
 - Assess the appropriateness of the ward's current living arrangements
 - Assess the needs for additional services
 - Notify the court if the ward's level of care is not being met
 - Document all complaints made by a ward and assess the need to report the complaints to the court

Responsibilities of Guardian to Ward – Rule 66.09



- (G) Direct Services

Shall not provide any direct services to a ward unless otherwise approved by the court.

Responsibilities of Guardian to Ward – Rule 66.09



- **(H) Monitor and Coordinate Services and Benefits**
 - Have regular contact with all service providers
 - Assess services to determine they are appropriate and continue to be in the ward's best interest
 - Maintain eligibility for all benefits
 - Consult regularly with guardian of person or guardian of the estate, when different

Responsibilities of Guardian to Ward – Rule 66.09



- **(I) Extraordinary Medical Issues**
 - Seek ethical, legal and medical advice to facilitate decisions involving extraordinary medical issues
 - Strive to honor ward's preferences and belief system concerning extraordinary medical issues
- **(J) End of Life Decisions**
 - Make every effort to be informed about ward's preferences and belief system

Responsibilities of Guardian to Ward – Rule 66.09



- (K) Caseload

Appropriately manage the ward's caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian's care.

- (L) Duty of Confidentiality

Keep the ward's personal and financial information confidential, except when disclosure is in best interest of the ward or upon order of the court.

Contact Information



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