

WHILE WAITING TO PROCESS GUARDIANSHIP PAPERWORK

When a young adult needs guardianship, the court declaration cannot be completed until after their 18th birthday.

There may be issues that impact the timing of meetings with a lawyer and attending a court date. Some families worry about this gap in time. While it is rarely an emergency if there are delays, here are some issues that can help allay any concerns:

1. School will require a letter from a physician to attest to the plan to get guardianship and therefore "allow" the parent to continue as the voice of the student at age 18.
2. If any agency asks to talk to a young adult who is awaiting guardianship, the parent or caregiver should be encouraged to explain pending guardianship to the agency. Some parents find this harder to do than others and it may take some practice and encouragement.

The parent should explain their child's limits in communication and offer to show this by sharing the phone with both the young adult and the agency personnel. Many times the agency will ask the young adult for permission to talk to the parent. If the child can say yes, then parent can talk to agency. If the child cannot answer, usually the agency personnel will then recognize that the person is not able to speak for themselves and will turn back to parent for the rest of conversation.

3. If any person requires emergency care and is unable to speak for themselves or make their own care decisions while awaiting guardianship, a clinician will talk to a proxy decision maker to assist with care decisions. This is called a legal assigned representative (LAR). In Indiana the order of priority for who may be the LAR is: spouse, any adult child, any parent, any adult sibling, any grandparent, any adult grandchild, any other adult relative; or a friend who meets certain conditions.
4. If a young adult can communicate whom they want to help them with healthcare decisions and requests that the clinician involves that person, then the clinician should involve that person in healthcare discussions and, depending on the situation, may involve that person in decision making.
5. For parent with immigration concerns, the clinician can provide a letter of statement that a child has ongoing need for the supervision of the parent. Lawyers recommend that it is better to write a specific letter at the time of an actual immigration hearing to address particulars of the case. Some families feel better to have something preliminary in writing.
6. For parent planning residential placement, it is encouraged to complete guardianship before placement to assure that guardian has voice in residential decisions.