

OFFICE OF PUBLIC GUARDIAN
Department of Disabilities, Aging and Independent Living

Procedures for Review of Public Guardianship Decisions

Introduction

These procedures describe how people affected by a decision of a Public Guardian may obtain a review of the decision. The procedures describe three different situations:

- A. The individual disagrees with a decision by his or her guardian, or wants a different guardian.**
- B. A relative of the individual disagrees with a guardian's decision to limit visitation or contact or a residential provider disagrees with a guardian's decision about where an individual will live.**
- C. Any person has a complaint about a guardian's decision or action, other than those listed in A or B.**

Definitions: (As used in these procedures)

“Individual” means a person who has a public guardian.

“Relative” means a parent, stepparent, sibling, grandparent, aunt, uncle, niece or nephew of an individual, and includes persons related to the individual by adoption.

“Residential provider” means a person who is providing or who has provided residential supports to the person, such as a contracted shared living provider, contracted roommate, developmental home provider, including a temporary developmental home, or foster home provider, or an agency that provides or provided residential services to the individual.

“Guardian” means a member of the staff of the Office of Public Guardian appointed for an individual pursuant to 18 V.S.A. §9303 or 9309 or 14 V.S.A. 3092.

A. The Individual Disagrees with a Guardianship Decision or Wants a Different Guardian.

- 1) If an individual disagrees with a decision of a public guardian, the individual and guardian should meet to discuss the disagreement. Members of the individual's support team, Green Mountain Self Advocates, the guardian's supervisor, a friend of the individual, and/or a mediator may participate in an informal process to resolve the disagreement with the consent of the individual and guardian. Costs of mediation, if any, will be paid by DAIL.

- 2) If, after an informal process, the individual still disagrees with the guardian, the guardian will assist the individual to consult with a lawyer from Vermont Legal Aid (or another lawyer if the individual has one) to discuss options for review. The choice of which option to pursue will be made by the individual and the individual's lawyer. The options include:
 - a) Mediation
 - b) Appeal to the guardian's supervisor
 - c) Appeal to Family Court or the Human Services Board under 18 V.S.A. §9315 or appeal to the Probate Court (if the guardian was appointed pursuant to 14 V.S.A. §3092).
 - d) A petition to modify or terminate guardianship under 18 V.S.A. §9316.
- 3) An individual may request a change of guardian at any time by directing the request to the Chief of the Office of Public Guardian. The program will make every effort to honor the request within the limitations of staff availability.

B. Any person other than the individual has a concern about a guardian's decision.

- 1) Any person who has a concern about an action of a guardian may communicate the concern verbally or in writing to the guardian's supervisor. If the communication is verbal, the response may be verbal or in writing. If the communication is in writing, the response will be in writing.
- 2) If the person who has a concern is not satisfied with the response of the supervisor, he or she may explain the concern in writing to the Commissioner of DAIL
- 3) In responding to a concern under this section, no employee of DAIL shall release confidential information about the individual to the person who has a concern.

C. A Relative Disagrees with a Decision of a Public Guardian about Visitation or Contact, or a Residential Provider Disagrees with a Guardian's Decision about Where an Individual Will Live.

- 1) As an alternative to the procedures for review listed in Section B, review by the DAIL Human Rights Committee is available to
 - a) A residential provider who disagrees with a guardian's decision about where a person will live, or a related decision. ("Related decision" includes a guardian's decision to restrict or limit contact

between the individual and a residential provider or a relative of the residential provider); or

- b) A relative who disagrees with a guardian's decision about visitation or contact with family members or about where a person will live.
- 2) A request for review by the DAIL Human Rights Committee must be made within 15 days after the day the aggrieved person learned of the guardian's decision. This time limit may be waived with the agreement of the Director of the Office of Public Guardian. The request must be in writing and addressed to:

Office of Public Guardian
DAIL - Weeks Building
103 South Main Street
Waterbury, VT 05671-1601

- 3) DAIL Human Rights Committee Review:

The DAIL Human Rights Committee is a group of people with diverse perspectives who review decisions involving human rights of individuals who receive Developmental Services. When the Committee is reviewing an appeal of a guardian's decision, no employee of the Agency of Human Services may participate in the deliberation.

The DAIL Human Rights Committee will meet to review the decision. In considering a request for review, the DAIL Human Rights Committee shall hear in person from the person requesting review and the guardian and any people they wish to bring to the hearing. Formal rules of evidence will not apply. If, after an initial hearing, the DAIL Human Rights Committee determines that it needs more information it may appoint a fact-finder to be paid by DAIL.

After hearing from witnesses and the report of the fact-finder (if any), the DAIL Human Rights Committee will make a recommendation in writing to the Director of the Office of Public Guardian, who will be responsible for notifying all interested persons of the decision and for implementing the decision.

No decision of the DAIL Human Rights Committee will compel or limit a decision of a developmental services agency to contract with or end a contract with a residential home provide or residential staff. Decisions of the DAIL Human Rights Committee pertain only to guardianship decisions.

Attachment: 18 V.S.A. §9303, 9309, 9315, and 9316.