



INFORMAL GUARDIANSHIPS

What is an informal guardianship?

An “informal guardianship” is the situation in which a minor (a person under eighteen years of age) lives with an adult who is not the minor’s parent without going to court for a formal, or “legal” guardianship. The person the minor lives with is referred to as the “informal guardian.” “Informal guardianship” and “informal guardian” are not legal terms, rather they are the terms used when parents let their children live with someone else. Using various documents, specifically, the Caregiver’s Authorization Affidavit and the Guardianship Authorization form, an adult can act as an informal guardian for a minor by allowing the minor to live with him/her, enrolling the minor in school, and seeking medical care for the minor.

NOTE: Although this is an accepted practice in the community, it is not legally sanctioned.

In what situation would an Informal Guardianship work?

Informal guardianships are appropriate when a parent or parents agree to letting the minor live with some other adult.

Why would someone get an “informal guardianship” instead of a “legal guardianship”?

Where parents and the informal guardian agree, an informal guardianship can be used instead of a legal guardianship. An informal guardianship is arranged by the parents and the adult caring for the minor.

Informal guardianships are less expensive than legal guardianships. There are no attorneys fees, court costs, fingerprinting fees, etc.

Are there situations where an informal guardianship won’t work?

An informal guardianship will not work where a parent does not agree to it. Also, if the informal guardian wants to put the minor on his/her insurance, sometimes a legal guardianship is necessary. Additionally, a legal guardianship is necessary where the informal guardian is not related to the minor and the informal guardian would like to get financial assistance, such as TANF (Temporary Assistance for Needy Families) for the minor.

Can the parents still see the minor after the informal guardianship is arranged?

The informal guardianship is simply an agreement between parents and the informal guardian. Part of the agreement can be visitation between the minor and the parents.

How does an adult become an informal guardian of a minor?

Setting up an informal guardianship is easy, there are two forms which should be filled out.

The first form, the “Caregiver’s Authorization Affidavit,” is signed by the informal guardian only. This form allows an adult with whom a minor is living to enroll the minor in school. In addition, if the informal guardian is related to the minor, the form allows the informal guardian to consent to medical care. If the informal guardian is not related to the minor, the form allows the informal guardian can consent only to school-related medical care, such as immunizations and physical exams necessary to get the minor into school. The back side of the form lists the people who are considered to be related to the minor.

The second form is the “Guardianship Authorization” form. It is completed by the parents and the informal guardian and allows the informal guardian to have the minor live with him/her and make decisions regarding education, religion, and medical care. It is best if the signatures are notarized. That is, the parents and informal

guardian should sign the form in front of a notary public. There are listings of notary publics in the phone book.



What is the legal significance of the Caregiver's Authorization Affidavit?

The Caregiver's Authorization Affidavit is authorized by Family Code Section 6550. It is valid for one year from the date it is signed, so it needs to be re-executed every year.

What is the legal significance of the Guardianship Authorization form?

The Guardianship Authorization form is not based on any state law. Instead, it is just a detailed "power of attorney." Parents often use powers of attorney when, for example, they are going out of town and leave a note saying that "the babysitter has the right to seek emergency medical care for the child." These types of forms work only where people accept them. Having a Guardianship Authorization form notarized means that there is proof that the parents really signed it and that no signatures were forged. The notary seal makes the form look more official, so some places will be more likely to accept it. The informal guardian and the parent can agree to the time period for which the Guardianship Authorization form will be valid.



What if the parents will not sign the Guardianship Authorization form?

An adult with whom a minor is living can still use the Caregiver's Authorization Affidavit to enroll the minor in school and consent to medical care (any medical care if the adult is related to the minor, school-related medical care if the adult is not related to the minor). Also parents can implicitly consent to allowing the minor to live with the informal guardian by doing nothing. In some situations though, a legal guardianship may be necessary.

What if only one parent is available to sign the Guardianship Authorization form?

It is better to have only one parent sign the form than to have neither parent sign it.



What do I do with the forms once I have them filled out?

Make copies of the signed Caregiver's Authorization Affidavit and Guardianship Authorization form. You should give copies to the minor's school and doctor. You should also make sure to keep at least one copy for yourself.

How does an informal guardian get financial support for caring for a minor?

The parents and the informal guardian can arrange for the parents to pay support to the informal guardian. If the informal guardian is related to the minor, the informal guardian can apply for TANF. A relative does not have to be a legal guardian to get TANF for a minor. If a non-relative needs financial support for a minor, the non-relative needs to be the legal guardian of the minor in order to get TANF.

What if the parents of the proposed guardian change their mind about the informal guardianship?

The informal guardianship is an agreement between the parents and the informal guardian. The agreement can be terminated at any time by any of the parties who signed the Guardianship Authorization form. It should be noted that because the agreement is informal, it cannot be enforced in court.

Where can I get the forms to arrange an informal guardianship?

You can call Legal Advocates for Children and Youth (LACY) at (408) 280-2416. An intake worker, usually a law student intern, will talk to you about the facts of your situation and answer any questions you may have. LACY will send you copies of the Caregiver's Authorization Affidavit and the Guardianship Authorization form.

Fact Sheets for Teen Parents can be found on-line at: <http://www.teenparents.org>