

1005-A GUARDIANSHIP

REVISION DATES: 1/7/2026, 9/30/2016, 9/1/2014

REVIEW DATES: 11/5/2025, 7/2/2024, 8/30/2023

EFFECTIVE DATE: July 31, 1993

REFERENCES: A.R.S. § 36-551, 14.5101, et seq.; 14-5311, 14-5303
14-5310, 14-5401, 14-5410, 14-5312;14-5722.

PURPOSE

The purpose of this policy is to establish the role of the Division when working with Members who currently have or may need a Guardian.

DEFINITIONS

1. "Conservator" means in Arizona, a person appointed by a court to manage the estate of a protected person.
2. "Dignity of Risk" means the right to risk experiencing consequences of Self-Determination.
3. "Guardian" means the person who, under court order, is appointed to fulfill the powers and duties prescribed in A.R.S.§14-5312.
4. "Guardianship" means a legal method that is used to insure that a person who is unable to make reasoned decisions has someone

specifically assigned to make decisions on their behalf. A

Guardian must be appointed by a court.

5. "Member" means the same as "Client"- a person receiving developmental disabilities services from the Division as specified in A.R.S. § 36-551.
6. "Planning Team" means a defined group of individuals comprised of the Member, the Responsible Person if other than the Member, and, with the Responsible Person's consent, any individuals important in the member's life, including extended family members, friends, service providers, community resource providers, representatives from religious/spiritual organizations, and agents from other service systems.
7. "Responsible Person" means the parent or Guardian of a minor with a developmental disability, the Guardian of an adult with a developmental disability or an adult with a developmental disability who is a Member or an applicant for whom no Guardian has been appointed.

8. "Self-determination" means an individual's independence in directing their life through decision-making, self-advocating, goal-setting, and working to reach their goals.
9. "Support Coordinator" means the same as "Case Manager," a person who coordinates the implementation of the individual program plan of goals, objectives and appropriate services for persons with developmental disabilities, as specified in A.R.S. § 36-551.
10. "Supported Decision-Making" means a process of supporting and accommodating an adult to enable the adult to make life decisions, including decisions related to where the adult wants to live, the services, support and medical care the adult wants to receive, whom the adult wants to live with and where the adult wants to work, without impeding the adult's self-determination.
11. "Supported Decision-Making Agreement" means an agreement between an adult and a Supporter that is entered into as outlined in A.R.S. § 14-5722.

12. "Supporter" means a person who is at least eighteen years of age and who enters into a Supported Decision-Making Agreement with an adult.

POLICY

- A.** The Division shall recognize each Member as having the same rights as non-Members unless otherwise determined by a court.
- B.** The Division shall recognize an individual who is 18-years-old or older, living with a developmental disability in the State of Arizona, is presumed legally competent and therefore their own Responsible Person unless a determination to the contrary is made in a Guardianship hearing.
- C.** Upon receiving notification that a Guardianship is in place for a Member or individual applying for Division services, Division staff shall verify Guardianship status by obtaining and reviewing Guardianship documentation as outlined in Division Eligibility Manual Policy Chapter 400 to confirm the Member's current Guardianship status.
- D.** If the Member's file indicates that a Guardianship is in place, and the Member's file does not already contain a copy of the court order that establishes Guardianship, the Support Coordinator shall obtain a copy

of the court order from the Guardian and place the document in the Member's file.

- E.** The Division shall promote the right of Self-determination, and thereby recognize the Dignity of Risk, for all Division Members.
- F.** The Support Coordinator shall verify the Member's Guardianship status annually with the Planning Team, documenting any reported changes to Guardianship status in the Member's file.
- G.** The Support Coordinator shall support the Planning Team when the Planning Team determines the Member would benefit from a Guardian by providing:
 - 1. Education on the process necessary for obtaining a Guardian;
and
 - 2. Resource information for obtaining Guardianship.
- H.** The Planning Team shall discuss the need for Guardianship support to be:
 - 1. Utilized only as is necessary to promote the well-being of the individual;
 - 2. Designed to encourage the development of maximum self-reliance and independence in the individual; and

3. Recommended only to the extent necessary to support the Member's needs.
- I.** If the Planning Team determines that a Member who is 18-years old or older is in need of a Guardian but no member of the Planning Team is able and willing to seek Guardianship, the Support Coordinator shall contact the county Public fiduciary for Members 18-years or older when no member of the Planning Team is able and willing to seek Guardianship.
 - J.** The Support Coordinator shall contact the Department of Child Safety (DCS) when a Member who is under the age of 18-years-old does not have a parent, legal Guardian, or interested party actively working on becoming their parent or Guardian concerned for the best interest of the minor.
 - K.** The Division shall recognize a Supported Decision-Making Agreement between a Member and their Supporter as outlined in A.R.S. §14-5722, when a copy of the notarized agreement has been provided to the Division to be placed in the Member's file.

SUPPLEMENTAL INFORMATION

- 1.** The Division does not recognize Conservatorship in place of Guardianship.
- 2.** The Division has a Tribal Liaison who can be contacted by reaching out to DDD Customer Service for matters involving Members who have tribal affiliation:

DES DDD Customer Service Center:
DDDCustomerServiceCenter@azdes.gov

Toll Free (844) 770-9500 option 1

TTY/TDD 711

Coralyn Lingwall

Signature of System and Practice Improvement Administrator

Coralyn Lingwall

Name

Jan 7, 2026

Date