

**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE  
FOR THE COURTS OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until June 25, 2014, on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

Comments on the proposed amendments should be submitted in writing to: Diana Ramos-Reardon, Domestic Violence Counsel, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215-3431, or [diana.ramos-reardon@sc.ohio.gov](mailto:diana.ramos-reardon@sc.ohio.gov) not later than June 25, 2014. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

1                                   **RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

2  
3   **RULE 66.01.       Definitions.**

4  
5   As used in Sup.R. 66.01 through 66.09:

6  
7       **(A)    Best interest**

8  
9       “Best interest” means decisions made for the benefit of or to improve the quality  
10      of life of the ward.

11  
12      **(B)    Direct services**

13  
14      “Direct services” means services typically provided by home and community-  
15      based care and institutionally-based care providers, including medical and nursing  
16      care, care or case management services, care coordination, speech therapy,  
17      occupational therapy, physical therapy, psychological services, counseling,  
18      residential, legal representation, job training, and any other similar services. The  
19      term “direct services” does not include services of a guardian.

20  
21      **(C)    Guardian**

22  
23      “Guardian” has the same meaning as in R.C. 2111.01(A), except it does not  
24      include a person who is related by consanguinity or affinity to the ward.

25  
26      **(D)    Ward**

27  
28      “Ward” means any adult found by a court of common pleas or division of the  
29      court to be incompetent and for whom a guardianship is established.

30  
31  
32   **RULE 66.02.       Application of Rules.**

33  
34      **(A)    General**

35  
36      Except as provided in division (C) of this rule, Sup.R. 66.01 through 66.09 shall apply in  
37      an adult guardianship case in a court of common pleas or division of the court where the  
38      court or division appoints a guardian to protect and control an adult ward pursuant to  
39      R.C. 2111.02.

40  
41      **(B)    Corporation as guardian**

42  
43      Sup.R. 66.01 through 66.09 shall apply to the employees of a corporation who provide  
44      guardianship services in an adult guardianship case in a court of common pleas or  
45      division of the court where the court or division appoints the corporation as guardian.

47 **(C) Family member guardians**

48  
49 Sup.R. 66.01 through 66.09 shall not apply in an adult guardianship case in a court of  
50 common pleas or division of the court where the guardian appointed to protect and  
51 control the ward is related by consanguinity or affinity to the ward but shall not preclude  
52 the court or division from imposing any orders or conditions upon such guardian as the  
53 court or division deems appropriate.

54  
55  
56 **RULE 66.03. Local Guardianship Rule.**

57  
58 A court of common pleas or division of the court that establishes guardianships shall adopt a  
59 local rule governing the establishment of guardianships that does all of the following:

60  
61 (A) Allows for the establishment of an emergency guardianship;

62  
63 (B) Establishes a process for emergency placement of a ward;

64  
65 (C) Establishes a process for submitting and considering written comments and  
66 complaints regarding the performance of guardians appointed by the court or division.  
67 The process shall include each of the following:

68  
69 (1) The designation of a person for accepting and considering comments and  
70 complaints;

71  
72 (2) A requirement that a copy of the submitted comment or complaint be  
73 provided to the guardian who is the subject of the comment or complaint and the  
74 administrative judge of the court or division for prompt consideration and  
75 appropriate action by the judge;

76  
77 (3) A requirement that the court or division maintain a written record in the  
78 guardian's file regarding the nature and disposition of the comment or complaint;

79  
80 (4) A requirement that the court or division notify the person making the  
81 comment or complaint and the guardian of the disposition of the comment or  
82 complaint.

83  
84 (D) Addresses other provisions as the court or division considers necessary and  
85 appropriate.

86  
87  
88 **RULE 66.04. Establishment of Guardianship.**

89  
90 **(A) Types of guardianship**

91  
92 (1) A court of common pleas or division of the court may establish either of the  
93 following types of guardianships:

94           (a) A plenary guardianship, which shall be the most restrictive form of  
95 guardianship. The guardian in a plenary guardianship shall make all decisions on  
96 behalf of the ward.

97  
98           (b) A limited guardianship, which shall be the least restrictive form of  
99 guardianship. The guardian in a limited guardianship shall be authorized to make  
100 decisions over a prescribed number of issues.

101  
102       (2) When establishing the guardianship, the court of common pleas or division of the  
103 court shall initially consider a limited guardianship.

104  
105 **(B) County of residence**

106  
107 The last county of residence in which a ward resided prior to losing the cognitive ability  
108 to choose shall be the ward's county of residence for purposes of establishing a  
109 guardianship, unless determined otherwise by the court of common pleas or division of  
110 the court establishing the guardianship.

111  
112 **(C) Guardianship of estate**

113  
114 A court of common pleas or division of the court may waive establishing or continuing  
115 the guardianship of the estate of a ward if the assets and principal income of the ward do  
116 not support a guardianship of the estate.

117  
118 **(D) Residential facilities and waiver programs**

119  
120 A court of common pleas or division of the court shall not issue letters of guardianship to  
121 any residential facility, waiver program, or employees of such care providers to serve as a  
122 guardian for a resident or recipient of such direct services.

123  
124  
125 **RULE 66.05. Responsibilities of Court Establishing Guardianships.**

126  
127 A court of common pleas or division of the court that establishes a guardianship shall do all of  
128 the following:

129  
130       (A) Conduct, or cause to be conducted, a criminal and civil background check and  
131 investigation of information relevant to the applicant's fitness to serve as a guardian;

132  
133       (B) Maintain a roster of all guardians appointed by the court or division, including the  
134 name; address; telephone number; and, if available, electronic mail address of each  
135 guardian. The court or division shall require each guardian to notify the court or division  
136 of any changes to this information. The name of a guardian shall be the only information  
137 on the roster available for public access pursuant to Sup.R. 44 through 47.

138

139 (C) Require each guardian appointed by the court or division to submit to the court or  
140 division information documenting compliance with the guardian qualifications of Sup.R.  
141 66.06;

142  
143 (D) Require each guardian appointed by the court or division to submit to the court or  
144 division on or before January 1st of each year certification to the court or division the  
145 guardian is unaware of any circumstances that would disqualify the guardian from  
146 servng as a guardian;

147  
148 (E) On or before February 1st of each year review the roster of all guardians  
149 appointed by the court or division to determine that each guardian is in compliance with  
150 the education requirements of Sup.R. 66.06 or 66.07, as applicable, that the guardian has  
151 performed satisfactorily on all appointments during the preceding calendar year, and that  
152 the guardian is otherwise qualified to serve.

153  
154  
155 **RULE 66.06. Guardian Pre-Appointment Education.**

156  
157 **(A) Requirement**

158  
159 Except as provided in division (B) of this rule, a court of common pleas or division of the  
160 court shall not appoint an individual as a guardian unless the individual has successfully  
161 completed a six-hour guardian fundamentals course provided by the Judicial College of  
162 the Supreme Court or, at any time prior to the effective date of this rule, completed an  
163 “Ohio Guardian Training Program” approved by the Judicial College. The fundamentals  
164 course shall include at a minimum education on the following topics:

- 165  
166 (1) Establishing the guardianship;  
167  
168 (2) The ongoing duties and responsibilities of a guardian;  
169  
170 (3) Record keeping and reporting duties of a guardian;  
171  
172 (4) Any other topic that concerns improving the quality of the life of a ward.

173  
174 **(B) Exception**

175  
176 An individual serving as a guardian on [the effective date of this rule] or who served as a  
177 guardian during the five years immediately preceding that date shall have one year from  
178 that date to complete the training required under division (A) of this rule unless the  
179 appointing court or division waives the requirement for good cause.

180  
181  
182  
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185

186 **RULE 66.07.**            **Guardian Continuing Education.**

187  
188 **(A) Requirement**  
189

190 A guardian appointed by a court of common pleas or division of the court shall annually  
191 complete a continuing education course that meets the following requirements:

- 192  
193        (1)    Is at least three hours in length;  
194  
195        (2)    Is provided by the Judicial College of the Supreme Court or, with the prior  
196 approval of the appointing court or division, another entity;  
197  
198        (3)    Is specifically designed for continuing education needs of guardians and  
199 consists of advanced education relating to the topics listed in Sup.R. 66.06(A)(1)  
200 through (4).

201  
202 **(B) Annual compliance**  
203

204 On or before January 1st of each year, a guardian shall report to each court of common  
205 pleas or division of the court from which the guardian receives appointments information,  
206 including the title, date, and location of the education, documenting compliance with the  
207 continuing education requirement pursuant to division (A) of this rule.

208  
209 **(C) Failure to comply**  
210

211 If a guardian fails to comply with the continuing education requirement of division (A) of  
212 this rule, the guardian shall not be eligible to serve as a guardian until the requirement is  
213 satisfied. If the guardian's deficiency in continuing education is three calendar years or  
214 less, the guardian shall qualify to serve after completing a three hour continuing  
215 education course offered under this rule. If the deficiency in continuing education is more  
216 than three calendar years, the guardian shall complete a six hour fundamentals course to  
217 qualify to serve.

218  
219  
220 **RULE 66.08.**            **General Responsibilities of Guardian.**

221  
222 **(A) Orders, rules, and laws**  
223

224 A guardian shall obey all orders of the court of common pleas or division of the court  
225 establishing the guardianship and shall perform duties in accordance with local rules and  
226 state and federal law governing guardianships.

227  
228 **(B) Pre-appointment meeting**  
229

230 Unless otherwise determined by the court of common pleas or division of the court, an  
231 applicant guardian shall meet privately with a proposed ward at least once prior to  
232 appearing before the court or division for a guardianship appointment.

233 **(C) Reporting abuse, neglect, or exploitation**

234  
235 A guardian shall immediately report to the court of common pleas or division of the court  
236 and adult protective services any allegations of abuse, neglect, or exploitation of a ward.  
237

238 **(D) Providing court with relevant information and informed recommendation**

239  
240 A guardian shall provide the court of common pleas or division of the court with relevant  
241 information and an informed recommendation regarding a ward's best interest.  
242

243 **(E) Limitation or termination of guardianship**

244  
245 A guardian shall seek to limit or terminate the guardianship authority and promptly notify  
246 the court of common pleas or division of the court if any of the following occurs:  
247

248 (1) A ward's ability to make decisions and function independently has  
249 improved;

250  
251 (2) Less restrictive alternatives are available;

252  
253 (3) A plenary guardianship is no longer in the best interest of a ward;

254  
255 (4) A ward is non-compliant or out of the guardian's control;

256  
257 (5) A ward has died.  
258

259 **(F) Change of residence**

260  
261 (1) Except if impracticable, a guardian shall notify the court of common pleas or  
262 division of the court of a ward's change of residence and reason for the change no later  
263 than ten days prior to the proposed change.  
264

265 (2) A ward's change of residence to a more restrictive setting in or outside of the  
266 county of the guardian's appointment shall be subject to the court's approval, unless a  
267 delay in authorizing the change of residence would affect the health and safety of the  
268 ward.  
269

270 **(G) Court approval of legal proceedings**

271  
272 A guardian shall seek prior approval from the court of common pleas or division of the  
273 court when filing for a civil commitment, marriage termination, or any other legal  
274 proceedings concerning a ward.  
275  
276  
277  
278

279 **(H) Annual plan**

280  
281 A guardian shall file annually with the court of common pleas or division of the court a  
282 guardianship plan as an addendum to the annual report. The guardianship plan shall state  
283 the guardian's goals for meeting the ward's personal and financial needs.  
284

285 **(I) Annual registration**

286  
287 A guardian shall annually register with the court of common pleas or division of the court  
288 and provide such information as the court or division may require, including but not  
289 limited to a fee schedule that differentiates guardianship services from legal or other  
290 direct services.  
291

292 **(J) Ward's principal income**

293  
294 A guardian shall inform the court of common pleas or division of the court and apply to  
295 close the estate if the principal income of the ward is from governmental entities, a payee  
296 for that income is identified, and no other significant assets or income exist.  
297

298 **(K) Guardian's compensation**

299  
300 A guardian shall itemize all expenses relative to the guardianship of the ward and shall  
301 not charge fees or costs in excess of those approved by the court of common pleas or  
302 division of the court. Except as otherwise authorized by the court of common pleas or  
303 division of the court, a guardian shall not receive incentives or compensation from any  
304 direct service provider providing services to a ward.  
305

306 **(L) Conflict of interest**

307  
308 A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal  
309 or business affairs. A guardian shall report to the court of common pleas or division of  
310 the court all actual or apparent conflicts of interest for review and determination of  
311 whether a waiver of the conflict of interest is in the best interest of the ward.  
312

313 **(N) Filing of ward's legal papers**

314  
315 A guardian shall file with the court of common pleas or division of the court an inventory  
316 of all of the ward's important legal papers, including, but not limited to, estate planning  
317 documents, advance directives, and powers of attorney.  
318  
319

320 **RULE 66.09. Responsibilities of Guardian to Ward.**

321  
322 **(A) Professionalism, character, and integrity**

323  
324 A guardian shall act in a manner above reproach, including but not limited to avoiding  
325 financial exploitation, sexual exploitation, and any other activity that is not in the best  
326 interest of the ward. A guardian shall not engage in sexual relations with a ward unless

327 otherwise authorized by the court of common pleas or division of the court establishing  
328 the guardianship.

329  
330 **(B) Exercising due diligence**

331  
332 A guardian shall exercise due diligence in making decisions that are in the best interest of  
333 a ward, including but not limited to communicating with the ward and being fully  
334 informed about the implications of the decisions.

335  
336 **(C) Least restrictive alternative**

337  
338 Unless otherwise approved by the court of common pleas or division of the court, a  
339 guardian shall make a choice or decision for a ward that best meets the needs of the ward  
340 while imposing the least limitations on the ward's rights, freedom, or ability to control  
341 the ward's environment. To determine the least restrictive alternative, a guardian may  
342 seek and consider an independent assessment of the ward's functional ability, health  
343 status, and care needs.

344  
345 **(D) Person-centered planning**

346  
347 A guardian shall advocate for services focused on a ward's wishes and needs to reach the  
348 ward's full potential. A guardian shall strive to balance a ward's maximum independence  
349 and self-reliance with the duty to keep the ward safe and protected.

350  
351 **(E) Ward's support system**

352  
353 A guardian shall strive to foster and preserve positive relationships in the ward's life  
354 unless such relationships are substantially harmful to the ward. A guardian shall  
355 document the reasons a particular relationship is severed.

356  
357 **(F) Communication with ward**

358  
359 (1) A guardian shall strive to know a ward's preferences and belief system by seeking  
360 information from the ward and the ward's family and friends.

361  
362 (2) Unless impracticable or inadvisable to do so, a guardian shall do each of the  
363 following:

364  
365 (a) Meet with the ward as needed, but not less than twice annually or more  
366 often as determined by the court or division;

367  
368 (b) Communicate privately with the ward;

369  
370 (c) Assess the ward's physical and mental condition and limitations;

371  
372 (d) Assess the appropriateness of the ward's current living arrangements;

373  
374 (e) Assess the needs for additional services;

375 (f) Notify the court or division if the ward's level of care is not being met;

376

377 (g) Document all complaints made by a ward and assess the need to report the  
378 complaints to the court of common pleas or division of court.

379

380 **(G) Direct services**

381

382 Except as provided in Sup.R. 66.04(D), a guardian shall not provide any direct services to  
383 a ward, unless otherwise approved by the court.

384

385 **(H) Monitor and coordinate services and benefits**

386

387 A guardian shall monitor and coordinate all services and benefits provided to a ward,  
388 including doing all of the following:

389

390 (1) Having regular contact with all service providers;

391

392 (2) Assessing services to determine they are appropriate and continue to be in  
393 the ward's best interest;

394

395 (3) Maintaining eligibility for all benefits;

396

397 (4) Where the guardian of the person and guardian of the estate are different  
398 individuals, consulting regularly with each other.

399

400 **(I) Extraordinary medical issues**

401

402 (1) A guardian shall seek ethical, legal, and medical advice, as appropriate, to  
403 facilitate decisions involving extraordinary medical issues.

404

405 (2) A guardian shall strive to honor the ward's preferences and belief system  
406 concerning extraordinary medical issues.

407

408 **(J) End of life decisions**

409

410 A guardian shall be informed about the ward's preferences and belief system in making  
411 end of life decisions on behalf of the ward.

412

413 **(K) Caseload**

414

415 A guardian shall appropriately manage the guardian's caseload to ensure the guardian is  
416 adequately supporting and providing for the best interest of the wards in the guardian's  
417 care.

418

419 **(L) Duty of confidentiality**

420

421 A guardian shall keep the ward's personal and financial information confidential, except  
422 when disclosure is in the best interest of the ward.