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<b>Approved:</b>	Karen Shea, Interim Deputy Commissioner	Effective: 8/24/2016
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## Purpose

To provide guidelines for determination of eligibility for guardianship assistance as well as other important information about the guardianship assistance program.

Permanent Guardianship Assistance provides financial resources to assist relative foster parents to provide permanency for a youth in DCF custody when neither reunification nor adoption is appropriate.

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## Definitions

**Relative or Kin:** A person who has biological and legal familial ties to the child.

**Fictive Kin:** A person with whom the child had a significant relationship prior to removal from the home.

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**Sibling:** A child related by biological, marital or legal ties (e.g., inclusive of step-siblings, half-siblings and adoptive siblings).

## Policy

33 V.S.A. § [4903](#)(7) grants the authority to provide guardianship assistance, as follows: “The department may expend, within amounts available for the purposes, what is necessary to promote the welfare of children and adults in this state, including the strengthening of their homes wherever possible by . . . (7)providing aid to a child in the permanent guardianship of a relative if the child was in the care and custody of the department and was placed in the home of a relative for at least six months prior to the creation of the guardianship”.

### Role of the Permanency Planning Manager and Project Family

As soon as a social worker knows that a permanent guardianship may be considered for a child/youth in DCF custody, they should contact the division’s permanency planning manager for consultation about the child’s eligibility for guardianship assistance. Project Family staff will also assist with the negotiation of the Guardianship Assistance Agreement.

### Eligibility for Guardianship Assistance

The division provides guardianship assistance payments for children in DCF custody, regardless of eligibility for federal Title IV-E benefits. Children and youth are eligible for guardianship assistance if:

- The child is in DCF custody;
- The proposed guardian is a kin or fictive kin;
- The child has been living with the proposed guardian in licensed foster care for at least six months; and,
- The department has determined all of the following:
  - Return home or adoption are not appropriate permanency options;
  - The child demonstrates a strong attachment to the prospective relative guardian;
  - The relative guardian has a strong commitment to caring permanently for the child; and
  - The child, if age 14 or older, is willing to consent to the guardianship arrangement.
- The prospective guardian and all adults in the household must submit to background checks, and be found to have no disqualifying records (See Family Services [Policy 222](#) on Background Checks: Family Foster Care, Kinship Care and Adoption). If the required background checks were completed on all adults in the

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household within the last 2 years for the purpose of foster care licensing or adoption finalization, they need not be repeated.

- Fingerprint supported criminal background check, with no disqualifying convictions.<sup>1</sup>
- Child Protection Registry Check in any state in which the adult has been living in the last 5 years.

The Guardianship Assistance (GAP) agreement must be signed by all parties, including the deputy commissioner, before the court orders the permanent guardianship.

#### **Sibling Eligibility**

Guardianship assistance is also available for a sibling of an eligible child when the sibling is placed under the guardianship of the same relative if the Family Services Division and the relative guardian agree that the placement is appropriate. The sibling may be placed into guardianship at the same time or later. The sibling previously placed under guardianship need not be the recipient of guardianship assistance. Once the second sibling becomes eligible for guardianship assistance, the first sibling becomes eligible as well.

Before the agreement is signed, the prospective guardian must also submit required background checks. The agreement must be signed before the guardianship for the second sibling is finalized.

Due to the complexities of sibling eligibility, the social worker should consult with the division’s permanency planning manager as early as possible if this is being considered.

#### **No Residency Requirement**

The agreement will remain in effect without regard to the state residency of the relative guardian.

#### **Types of Assistance**

The division may grant guardianship assistance in one or more of the following forms:

- A monthly assistance payment. The needs of the child/youth and the circumstances of the guardians will determine if the division will grant this payment and in what amount.
- Payment for special services not provided for by other sources to meet the child’s needs.

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<sup>1</sup> Note: It takes about 12 weeks for the results of a finger-print supported criminal background check to be returned, once submitted. These check can and should be completed in advance of any court proceeding.

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- Certain non-recurring expenses related to finalizing the guardianship, up to \$2,000 per child/youth.
- Vermont Medicaid, or if the child is eligible for Title IV-E guardianship assistance, Medicaid in any state.

#### **Initial Agreements for Ongoing Guardianship Assistance**

The division may determine a child/youth's eligibility for guardianship assistance any time appropriate to case planning. Guardianship assistance payments begin when the permanent guardianship is order.

#### **Determining the Types and Amount of Assistance**

The division and the prospective guardian(s) will negotiate the amount and types of assistance based on the needs of the child/youth and the resources of the prospective guardian(s). Guardianship assistance payments may not exceed the foster care maintenance payment the child would have received if he or she remained in a foster family home. The decision on the actual subsidy amount must be made with the participation of the prospective guardian(s).

#### **Changes in Agreement**

Once the parties sign the guardianship assistance agreement, the amount or type of assistance can be changed only with the concurrence of both parties. When the circumstance of the family or the needs of the child/youth warrant it, guardians may apply for reconsideration of the specifics of the written agreement.

#### **Agreements Opened as a Result of Decisions by the Human Services Board or Vermont Supreme Court**

If a guardianship assistance agreement is signed with a family as a result of a decision made by the Human Services Board or the Vermont Supreme Court, that agreement will be effective as of the date of application. IV-E eligibility will be determined based on the child/youth's circumstances at the time of the establishment of the permanent guardianship.

#### **Termination of the Agreement**

A guardianship assistance agreement will be terminated when:

- The child has attained the age of 18;
- The child has attained 21 years of age, if the department determines that the child has a mental or physical disability which warrants the continuation of assistance to age 21; or

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- The child has not attained 18 year of age, if the relative guardians are no longer legally responsible for the support of the child; or.
- The child is no longer receiving any support from the relative guardians.

#### **Suspension or Reduction of Guardianship Assistance Payments**

The division may suspend or reduce guardianship assistance payments when:

- The child reenters foster care or another out-of-home setting or
- The guardian is in receipt of other sources of income on behalf of the child.

#### **Successor Guardians**

A relative guardian entering into an initial or amended guardianship assistance agreement may name a successor who will assume guardianship if the guardian dies or becomes incapacitated. The court may name a successor guardian in the initial order for permanent guardianship. The successor guardian need not be a relative of the child or the guardian. If the court makes such an order, and this successor guardian becomes the permanent guardian, that guardian is eligible to receive guardianship assistance on the child's behalf.

If the court did not make an order naming a successor guardian, should the permanent guardians be unable to continue as guardians, a potential successor guardian can be identified. However, custody of the child reverts initially to the department. The steps are as follows:

1. The child comes back into DCF custody;
2. The successor guardian applies to be a licensed foster parent, if they have not already done so. This will require all background checks to be completed;
3. The child is placed with the successor guardian in licensed foster care and lives with them in that status for at least six months;
4. The division enters into a Guardianship Assistance Agreement with the successor guardians
5. The youth, if over 14 agrees to the new permanent guardianship;
6. A new order of permanent guardianship is made by the family division judge.
7. Guardianship assistance begins on the date of the order.

#### **Guardianship Assistance over Age 18**

When the division has provided guardianship assistance for a child/youth under the age of 18, the division may enter into an agreement to provide assistance over the age of 18 under the following circumstances:

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- The young adult has not yet graduated from high school. In this case, assistance may be provided until the date on which the young adult (1) graduates or (2) leaves school without graduating; or
- The young adult has a lifelong mental or physical disability that limits activities of daily living as determined by a medical professional. Assistance will be provided up to the young adult's 21st birthday as long as his/her guardian continues to provide financial support (regardless of whether the young adult has completed high school.)

For all over-age-18 agreements, the rate will be the current rate for Level 3 foster care, or the rate being paid before age 18, whichever is lower.

**Guardianship Assistance Initiated between Youth's 17th and 18th Birthday**

For agreements entered into after a youth turns 17, the initial agreement will articulate the specifics of the assistance that will be paid before the age of 18, and if warranted, after the age of 18. Provisions governing payments over the age of 18 will conform to the previous section on that topic. Under no circumstances will special services continue past the age of 18.