

**Title 20. Public Health and Welfare**

**Chapter XIV. Division of Developmental Disabilities Services, Department of Human Services**

**Subchapter A. Generally**

**Part 543. Guardianship**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Policy No. 1043"

"Replacement Notation: This Policy replaces DDS Policy #1043, dated April 26, 1985 and January 8, 1987."

"Effective Date: December 1, 1993"

"References: Arkansas Code Annotated 28-65-101 et.seq., Office of Chief Counsel Procedures."

"Administrative Rules & Regulations Sub Committee of the Arkansas Legislative Council: November 4, 1993."

**Subpart 1. Generally**

**20 CAR § 543-101. Purpose.**

(a) This part establishes Division of Developmental Disabilities Services guidelines for decisions regarding guardianship.

(b) Guardianship shall be used only as is necessary to promote and protect the well-being of the person.

(c) It is the intent of this part to encourage the development of maximum self-reliance and independence of the person, and to recommend guardianship only to the

extent necessitated by the person's actual mental, physical, and adaptive limitations, as determined by the interdisciplinary team.

**Authority.** Arkansas Code § 28-65-707.

**20 CAR § 543-102. Scope.**

This part pertains to all Division of Developmental Disabilities Services:

- (1) Programs;
- (2) Services; and
- (3) Staff.

**Authority.** Arkansas Code § 28-65-707.

**20 CAR § 543-103. Guardianship criteria.**

(a)(1) Guardianship will only be pursued when need for such is clearly and fully documented.

(2) Factors in considering guardianship will include but are not limited to:

- (A) Informed consent;
- (B) Life-threatening situations; and
- (C) The potential for exploitation.

(b)(1) Guardianship will not be pursued as a general policy or criteria for entrance, for participation, or as a contingency to receiving any service offered by the Division of Developmental Disabilities Services.

(2) The only exception will be for persons residing in or selected for participation in division special treatment units which are designed for persons with behavioral disorders that constitute a danger to themselves or others.

(3) Programming for these individuals will be behaviorally oriented and guardians are needed to serve as an advocate for these individuals and consent to their:

- (A) Placement;

(B) Programs; and

(C) Treatment.

(c)(1) No division staff may assume guardianship of an individual receiving any direct or indirect services from the agency unless a parent.

(2) Any division employee who currently serves as a guardian and is not a parent guardian shall seek remedy through the Office of Chief Counsel.

(d) As part of the interdisciplinary team and annual staffing process, review of the individual's need for guardianship shall be conducted and information gained therefrom made a part of the IPP.

**Authority.** Arkansas Code § 28-65-707.

**Codification Notes.** "IPP" means individualized program plan.