
Principles: Conservatorship of People with Disabilities

*Publication #1037 - Adopted 2/19/2000, Amended 3/8/2014;
Amended 3/24/2017*

Background

Conservatorships remove people's rights to decision making and autonomy. As such, they must be used sparingly and in the least restrictive way possible. For example, a person with an intellectual or developmental disability should be placed on a limited rather than a general conservatorship. Appointment of a conservator should not be for the convenience of a service system or society. Please see also our principles on involuntary mental health treatment.

Principles

By their nature, conservatorships limit individual autonomy and the ability to make choices. Only when there is a specific, identifiable need that cannot otherwise be met through less intrusive means and there is a serious, ongoing risk to the person's health, well-being or property should a conservatorship be sought. The following principles will guide our work in this area:

1. Only establish a conservatorship when there is no less restrictive alternative. Such alternatives could include power of attorney, a guardian, court authorization of medical treatment, and statutory authorization for medical consent, representative payee, trusts,

- statutorily empowered advocates, use of facilitators to assist in decision-making, self-advocacy training or advocacy assistance.
2. Before deciding a person with a disability needs a conservatorship, the individual's ability to make choices and alternate ways to help the person make decisions must be considered. For people with intellectual or developmental disabilities the individual's person-centered planning team must look at these considerations.
 3. A conservatorship should be time-limited and reviewed regularly.
 4. People on conservatorships should receive training to ameliorate the need for a conservatorship, if they want. Training may include training in self-determination, assertiveness, communication, decision-making, use of a facilitator, and self-advocacy.
 5. If a conservatorship is established, conservators should act in concert with the conservatee's wishes and needs. This means the conservator's decisions should reflect, as closely as possible, the expressed or inferred preferences and choices of the conservatee.
 6. In making substituted judgment determinations, the conservator should ensure services and supports are provided in the least restrictive environment that foster the person's intellectual or developmental potential and are directed toward achievement of the most independent, productive and normal life possible.
 7. Conservatees have the right to seek to remove a conservator acting in a way that goes against the conservatee's wishes and needs.
 8. Conservatees should have the right to dismiss a conservator without limitation.
 9. Conservatees should have the right to speak in court during their conservatorship hearing.
 10. Only a person or entity independent of the service funding and delivery systems, should perform conservatorship functions. If appropriate family members are not available, qualified conservators should be selected from among nonprofit entities with disability specific knowledge and expertise.
 11. Any person who performs conservatorship functions should be the conservator for only a small number of individuals, so the conservator can meet regularly with each conservatee, become familiar with his or her capabilities, needs and desires, and participate in meetings.

12. Conservators should receive adequate training to perform their duties.
13. Conservators must perform their duties consistent with the following standards. Conservators should:
 - a) Be committed to the well-being of the individual, knows and understands the conservatee's needs and wishes and acts in accordance with them;
 - b) Be knowledgeable about the services, supports and systems that impact the life of the conservatee;
 - c) Be accountable for their actions and have them reviewed regularly by the court;
 - d) Meet with the planning team (if the conservatee has one) to consider whether there are less restrictive alternatives to conservatorship and make recommendations to the court;
 - e) Treat the conservatee with respect and respect the conservatee's choices;
 - f) Not provide "blanket consent" for such things as medications, medical treatment or behavioral interventions;
 - g) Not authorize expenditures from conservatee funds that a service system, such as a regional center, are obligated to pay;
 - h) Manage conservatee funds so the conservatee remains eligible for public benefits, including medical benefits; and
 - i) Ensure the conservatee has access to:
 - a wide range of community experiences and knows the options to live, work, learn, play and worship in the community of their choice;
 - chances for social interactions and relationships;
 - chances to gain skills so conservatees can take greater control over their lives; and
 - chances to develop decision-making skills by providing understandable relevant information to aid the conservatee in making choices.