

CHAPTER 132A
LEGAL GUARDIANSHIP

Authority

N.J.S.A. 3B:12A-1, 3B:12A-6f, 30:4C-4(h), 30:4C-12.1,
30:4C-84 through 88 and 44:10-44 through 54.

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See: 34 N.J.R. 3046(a), 35 N.J.R. 1904(b).

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CHAPTER TABLE OF CONTENTS

**SUBCHAPTER 1. DYFS LEGAL GUARDIANSHIP
SUBSIDY PROGRAM**

- 10:132A-1.1 Purpose of N.J.A.C. 10:132A-1 and 2
- 10:132A-1.2 Scope of N.J.A.C. 10:132A-1 and 2
- 10:132A-1.3 Definitions
- 10:132A-1.4 Service limitations
- 10:132A-1.5 Responsibilities of a relative participating in the DYFS
Legal Guardianship Subsidy Program
- 10:132A-1.6 Eligibility for the DYFS Legal Guardianship Subsidy
Program
- 10:132A-1.7 Program standards
- 10:132A-1.8 Division action
- 10:132A-1.9 Circumstances requiring redetermination
- 10:132A-1.10 Circumstances requiring termination
- 10:132A-1.11 Dispute resolution

SUBCHAPTER 2. SERVICES PROVIDED

- 10:132A-2.1 Types of services provided

**SUBCHAPTER 3. DIVISION RESPONSIBILITIES
UNDER THE LAW**

- 10:132A-3.1 Purpose
- 10:132A-3.2 Scope
- 10:132A-3.3 Kinship caregiver assessment done by the Division
- 10:132A-3.4 Information provided to a designated agency and the
court
- 10:132A-3.5 The Division's responsibility when the court may vacate
a kinship legal guardianship order

**SUBCHAPTER 1. DYFS LEGAL GUARDIANSHIP
SUBSIDY PROGRAM**

10:132A-1.1 Purpose of N.J.A.C. 10:132A-1 and 2

The purpose of this subchapter and N.J.A.C. 10:132A-2 is to establish the DYFS Legal Guardianship Subsidy Program within the Division of Youth and Family Services. The program provides financial support and permanency to children placed by the Division with a relative or family friend who subsequently obtains kinship legal guardianship through the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-1 et seq.

10:132A-1.2 Scope of N.J.A.C. 10:132A-1 and 2

The provisions of this subchapter and N.J.A.C. 10:132A-2 apply to each child whose participation in the DYFS Legal Guardianship Subsidy Program is approved or is being evaluated, each relative or family friend who agrees to participate or is being evaluated to participate in the program, each other household member, each parent of a child who participates or is being evaluated to participate in the program, and each Division representative.

10:132A-1.3 Definitions

(a) The definitions in N.J.A.C. 10:133-1.3, Definitions, are hereby incorporated into this chapter by reference.

(b) The following words and terms shall have the following meaning in this chapter and not the meaning defined in N.J.A.C. 10:133-1.3:

“Parent” means a person who is the mother or father of a child through birth or adoption.

“Relative” means any person, other than the child's parent, who is related to the child through blood or marriage or adoption and including a stepparent, or a “family friend,” as defined in N.J.A.C. 10:133-1.3.

(c) In addition, the following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“DYFS Legal Guardianship Subsidy Program” or “program” means a service provided by the Division to provide financial support and permanency to certain children for whom a relative or family friend has obtained kinship legal guardianship pursuant to N.J.S.A. 3B:12A-1 et seq.

“Household member” means an adult or child who resides either full-time or part-time in the home of a relative who agrees to participate in the DYFS Legal Guardianship Subsidy Program.

“Income” means money received from employment, including self-employment; rental property payments made directly or through an agent; Social Security Disability, Retirement, or Survivors benefits; State disability benefits; worker's compensation; pension; 401K payments; alimony; railroad retirement; General Assistance; unemployment; interest and dividend payments; veterans benefits; and child support. Income does not include Supplemental Security Income benefits.

“Kinship caregiver assessment” means a written report submitted to the court regarding the suitability of a relative to be designated legal guardian in accordance with the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-5.

“Placed by the Division” means a Division representative determined that a child could not remain in his or her

own home, the Division had legal authority for removal of the child, and a Division representative physically located or arranged for the child to be in the care of a public or private facility or a relative's home.

Administrative correction.
See: 35 N.J.R. 3360(a).

10:132A-1.4 Service limitations

The availability of the program established by this chapter is subject to the continued availability of funding.

10:132A-1.5 Responsibilities of a relative participating in the DYFS Legal Guardianship Subsidy Program

(a) A relative who agrees to participate in the program shall provide accurate information and submit documents the Division determines necessary to confirm eligibility and meet the program standards for the program in accordance with N.J.A.C. 10:132A-1.6 and 1.7.

(b) A relative approved for the program shall:

1. Provide accurate information and submit documents the Division determines necessary to confirm continued eligibility for the program in accordance with N.J.A.C. 10:132A-1.9;
2. Report to a Division representative any changes in circumstances which may affect eligibility for the program, prior to the change if possible or immediately thereafter; and
3. Cooperate with the rules of the program contained in this chapter.

10:132A-1.6 Eligibility for the DYFS Legal Guardianship Subsidy Program

(a) The Division representative advises a relative interested in the DYFS Legal Guardianship Subsidy Program of the requirements for eligibility and the circumstances which require termination of the program.

(b) A child is eligible for the DYFS Legal Guardianship Subsidy Program when:

1. A Division representative placed the child with a relative due to safety or risk of harm issues and the Division had legal authority for placement through consent of the parent or a court order;
2. The relative is related to the child through blood or marriage or adoption or is a family friend as defined at N.J.A.C. 10:133-1.3;
3. A Division representative made reasonable efforts when required to reunify the child and the parent, in accordance with N.J.A.C. 10:133I;

4. The Division representative determines that the child cannot be returned to his or her parent and that adoption is neither likely nor feasible;

5. The relative and the child live in New Jersey;

6. The relative interested in being approved for the program has obtained kinship legal guardianship, pursuant to the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-5; and

7. The child does not have income greater than 500 percent of the State Median Income for a one person family. The State Median Income is published annually in the Federal Register.

10:132A-1.7 Program standards

(a) The Division requires a relative interested in being approved for the program to meet the following standards in order to be approved for the DYFS Legal Guardianship Subsidy Program:

1. The relative agrees to comply with the responsibilities of the program by signing the agreement;
2. The relative is at least 18 years of age, but if under 21, the relative has a spouse or other household member age 21 or older who resides full-time in the relative's home and is willing to share responsibility for the child's care;
3. No household member has been responsible for an incident of sexual abuse of a child or an incident of child abuse or neglect which caused serious injury or harm to a child, or caused death to a child through abuse or neglect;
4. No household member has been convicted of a crime specified in N.J.S.A. 30:4C-26.8 or any other crime or offense which could pose a risk of harm to the child;
5. The relative discloses any criminal convictions of each juvenile member of the household, age 14 years or older. The Division representative assesses the safety of a child placed with this relative in relation to the criminal convictions of any juvenile living with the relative;
6. If employed outside the home, the relative has an acceptable plan for care and supervision of the child during the relative's absence from the home;
7. There is no indication of health, safety, or fire hazards in or around the relative's home;
8. Sleeping arrangements for the child are adequate, including privacy appropriate to the age and needs of the child;
9. There is no indication that the relative or any other household member has personal characteristics or conduct which, in the judgment of the Division representative, would jeopardize the health or safety of the child;