

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.

Source and Effective Date

R.2008 d.364, effective October 31, 2008.
See: 40 N.J.R. 3567(a), 40 N.J.R. 6808(a).

Chapter Expiration Date

Chapter 132A, Legal Guardianship, expires on October 31, 2013.

Chapter Historical Note

Chapter 132A, Legal Guardianship, was adopted as new rules by R.2003 d.169, effective May 5, 2003. See: 34 N.J.R. 3046(a), 35 N.J.R. 1904(b).

Chapter 132A, Legal Guardianship, was readopted as R.2008 d.364, effective October 31, 2008. See: Source and Effective Date. See, also, section annotations.

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 is considering whether to vacate a kinship legal guardianship order
10:132A-3.6	Factors to consider regarding motions to vacate kinship legal guardianship orders

**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, marriage, adoption, civil union, or domestic partnership 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:

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

“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 placed in a relative’s home.

“Program” means the DYFS Legal Guardianship Subsidy Program, as defined in N.J.A.C. 10:133-1.3.

Administrative correction.

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

Amended by R.2008 d.364, effective December 1, 2008.

See: 40 N.J.R. 3567(a), 40 N.J.R. 6808(a).

In (b), in definition “Relative”, substituted “blood, marriage, adoption, civil union, or domestic partnership” for “blood or marriage or adoption”; in (c), in definition “DYFS Legal Guardianship Subsidy Program”, deleted “or family friend” following “relative”; in definition “Household member”, substituted “participates” for “agrees to participate”; deleted definition “Income”; and in definition “Placed by the Division”, inserted “placed” and deleted “the care of a public or private facility or” preceding “a relative’s home”.

Amended by R.2010 d.108, effective June 21, 2010.

See: 42 N.J.R. 120(a), 42 N.J.R. 1204(a).

In (c), deleted definitions “DYFS Legal Guardianship Subsidy Program” and “Kinship caregiver assessment”; and added definition “Program”.

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, including a change in household composition, prior to the change if possible or immediately thereafter; and
3. Cooperate with the rules of the program contained in this chapter.

Amended by R.2008 d.364, effective December 1, 2008.

See: 40 N.J.R. 3567(a), 40 N.J.R. 6808(a).

In (b)2, inserted a comma following “circumstances” and inserted “including a change in household composition”.

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

(a) When the Division determines kinship legal guardianship as a permanent plan for the child, the Division representative advises a relative interested in the DYFS Legal Guardianship Subsidy Program of the requirements for eligibility and the circumstances that 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 a court order;
2. The relative is related to the child through blood, marriage, adoption, civil union, or domestic partnership 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;
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 has obtained kinship legal guardianship, pursuant to the Kinship Legal Guardianship Act, N.J.S.A. 3B:12A-5; and
6. The relative’s home meets the program standards articulated in N.J.A.C. 10:132A-1.7, for as long as the subsidy is paid.

Amended by R.2008 d.364, effective December 1, 2008.

See: 40 N.J.R. 3567(a), 40 N.J.R. 6808(a).

In (a), substituted “When the Division determines kinship legal guardianship as a permanent plan for the child, the” for “The” and substituted “that” for “which”; in (b)1, deleted “consent of the parent or” following “through”; in (b)2, substituted “blood, marriage, adoption, civil union, or domestic partnership” for “blood or marriage or adoption”; in (b)3, deleted “;” in accordance with N.J.A.C. 10:1331 following “parent”; deleted former (b)5; recodified former (b)6 as (b)5; in (b)5, deleted “interested in being approved for the program” following “relative”; added new (b)6; and deleted (b)7.

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;
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 death, serious injury or harm, or significant risk of serious injury to a child;
4. The child’s parent does not reside in the relative’s home, unless an exception is made by the DYFS Director or his or her designee for those rare and limited circumstances including, but not limited to, where the parent is dependent upon the caregiver because he or she is a minor