

Information Packet

Rights, Conservatorships, and Alternatives to Conservatorship for Adults with Intellectual and Developmental Disabilities Including When the Department Can Be Appointed as a Conservator

This packet provides information about the rights of adult individuals with intellectual and developmental disabilities' (I/DD). It provides information about ways to support adults with I/DD in decision-making and alternatives to conservatorship. It provides information about conservatorships and when the Department may agree to serve as the conservator.

The Department of Developmental Services (Department) has adopted a set of principles about an individual's rights, ways to support decision making, alternatives to conservatorship and when the Department will serve as conservator. The Department's principles are found here: [Conservatorship Values and Principles](#)

There are links throughout this information packet to fact sheets and other resources. The 4 parts of this information packet are below.

Part 1: Rights of Adults with Intellectual or Developmental Disabilities

What happens when an individual with intellectual or developmental disabilities I/DD becomes an adult?

Individuals with I/DD have the same rights as other adults when they turn 18. These rights include the right to:

- Decide where to live
- Decide if and where to work
- Make decisions about the services they receive from schools, colleges, and regional centers
- Enter into contracts
- Agree to medical treatment
- Access their confidential records
- Vote
- Get married
- Have friends

Some adults with I/DD may need help making decisions on their own. Options to support an individual's decision making, which are also called alternatives to conservatorship, include: supported decision-making, powers of attorney; and health

care directives. See part 2 of this information packet for more about these and other options.

If an individual with I/DD's well-being cannot be achieved with other supports, a court may grant a conservatorship. A conservatorship is when a judge appoints another person or agency to make decisions for an adult. The court must decide that a conservatorship is needed to protect the individual with I/DD's well-being. The court must also decide there are no less restrictive ways to support the individual. See Part 3 of the Information Packet.

Sometimes the Department may be appointed as an individual's conservator. This only happens as a last resort, when it is necessary to protect the individual's health and safety and well-being, and there are no alternatives to conservatorship or other individuals who are able to serve as conservator. See Part 4 of the Information Packet.

Part 2: Decision-Making Supports and Alternatives to Conservatorship

What ways can individuals with I/DD get help making decisions and what are alternatives to conservatorship?

There are many ways individuals with I/DD can get help making decisions. Some examples of decision-making help are listed below. Individuals can ask their regional center or school district for training or other services that will help them learn how to make their own decisions. These services and training would be included in their Individual Program Plan (IPP) or Individualized Education Plan (IEP).

These decision-making supports are also called "alternatives to conservatorship".

- **Supported-Decision-Making (SDM)** allows an individual to use trusted family members, friends and professionals to help them make decisions in their life. This person is called a "supporter". For example, an individual with I/DD can ask a supporter to attend their IEP or IPP meeting.

The supporter does not make decisions for the individual. The supporter helps an individual think about options and decide what action they want to take. An individual can use SDM with or without a written agreement. More information about SDM is found here [DDS Supported Decision Making FAQ - 2024](#)

- **Power of Attorney** is a legal document which gives someone the individual trusts the legal right to make decisions for them. For example, an individual can give someone a power of attorney to make all or some of their financial decisions. More information about Powers of Attorney is here under Other Options: <https://selfhelp.courts.ca.gov/options-help-someone-impairment-or-disability>
- **Social Security Representative Payee** is a person approved by the Social Security Administration to manage an individual's Supplemental Security Income (SSI) or other Social Security Benefits. Information about a representative payee is on [the payee page of the SSA website](#).

- **Advanced Health Care Directive** is a legal document that lets an individual identify a person who can make health care decisions for them. The advanced health care directive can say what type of medical treatment the individual wants or doesn't want. It can also say when it must be followed. For example, it can be used only when the individual cannot make their own decisions. Information about Advance Health Care Directives is here under Other Options:
<https://selfhelp.courts.ca.gov/options-help-someone-impairment-or-disability>. Information about other ways health care decisions can be made is in this [Health Care Decision Making for Individuals with Intellectual and Developmental Disabilities](#)
- **Access to Confidential Information** An individual can let others such as family have access to their confidential records. For example, if an individual wants other family members or friends to have access to their confidential medical or regional center records, they can sign a HIPAA medical release form. School records can be shared with others if the individual signs a release form required by the school district.
- **Special Needs Trusts and Cal-ABLE accounts** are ways to manage an individual's money which may help an individual keep their government benefits such as SSI and Medi-Cal. General information about special needs trusts and Cal-ABLE accounts is found here:
<https://www.treasurer.ca.gov/able/events/webinars/2022/20220720/special-needs-trust-slides.pdf>

When do alternatives to conservatorship need to be considered?

Recent changes to the law require that less restrictive alternatives be considered before the appointment of a conservator.

This means that the person/agency asking to become an individual's conservator must tell the judge which alternatives were tried or considered and why the alternatives won't work. The judge must consider if less restrictive alternatives would support the individual before appointment of a conservator.

Part 3: Conservatorships

What is a conservatorship?

A conservatorship is when a judge appoints a person or agency to act on behalf or make decisions for an adult. Before appointing a conservator, the judge must decide:

- A conservatorship is needed for an individual's well-being and the individual is not able to care for themselves. The judge must consider the individual's abilities with current and possible supports. This means that an individual who gets help making decisions or taking care of themselves may not need a conservator; and
- Other less restrictive options won't work. Examples of options include those in Part 2 Frequently Asked Questions about Alternatives to Conservatorship

The person or agency the judge appoints to make decisions for the individual is called a conservator. The individual in a conservatorship is called the conservatee.

What are the types of conservatorships?

There are several types of conservatorships that usually apply to people with I/DD

- Limited Conservatorships
- General Conservatorships
- Lanterman Petris Short (LPS) Conservatorship

Limited conservatorships are for people with I/DD. In a limited conservatorship, a conservator's powers are strictly limited to up to 7 specific powers based on the conservatee's needs. The court gives the conservator authority over specific aspects of the conservatee's life and no others.

General conservatorships give the conservator broad authority and responsibilities for another individual except those the judge says are not needed. Information about general probate conservatorships may be found here:

<https://selfhelp.courts.ca.gov/helping-person-impairment-or-disability>

LPS conservatorships are used when individuals have mental health conditions and need help getting treatment. The court must find that the individual is "gravely disabled." That means that the individual cannot take care of their personal needs for food, clothing or shelter. Senate Bill 43 expanded the definition to include "a severe substance use disorder, or a co-occurring mental health disorder and a severe substance disorder." An LPS conservator is responsible for making decisions and can even place the conservatee in a locked mental health facility for needed treatment. With all of these types of conservatorships, the conservator may be responsible for the care of the individual or may also manage the individual's finances. When the conservator is responsible for an individual's care and protection, it's called a conservatorship of the person. If they handle finances, it's called conservatorship of the estate. If someone needs a conservatorship of the person and the estate, a court could appoint one person to be in charge of both or they could have different people.

What are a conservator's responsibilities in a conservatorship?

All conservators must do the following:

- Protect the conservatee's rights
- Set goals for increasing the conservatee's abilities
- Make sure the conservatee's needs are met
- Help the conservatee remain as independent as possible and receive their services and supports in the least restrictive setting
- Help the conservatee understand, make and communicate their own informed choices. The conservator shall consider the conservatee's expressed preferences. The conservatee may communicate their preferences by speech, sign language, alternative and assistive communications and other spoken and non-spoken methods of communications such as facial expressions.
- See the [Rights and Responsibilities of a Conservator](#)

What powers can a judge give a conservator in a limited conservatorship?

A judge must decide if the person with I/DD needs a conservator. If they do, the judge must decide if the person with I/DD needs help in each area of life covered by the 7 powers. The 7 powers are:

1. Decide where the conservatee will live
2. Access confidential records
3. Decide if the conservatee can marry
4. Enter into contracts
5. Give consent to medical treatment
6. Control of the conservatee's social and sexual relationships
7. Make educational decisions

A conservator must support the individual's independence, help the individual make their own decisions and tell the individual any decisions they make for them.

What powers does a conservator not have?

A conservator only has the powers granted by the court. A conservator will not have the power to do the following without a special court order:

- Approve some kinds of medical treatment including some kinds of psychiatric drugs and electro-convulsive shock therapy (ECT) or sterilization.
- Have the individual committed to an institution,
- Control the individual's wages from a job.

What rights does the individual keep in a limited conservatorship?

The individual has the right to make their own decisions in all areas except those the judge gives to their conservator. The individual must get a document that tells them what powers the conservator has and what rights they keep. The individual also has the right to:

- Vote unless the judge has specifically taken that away.
- Make or change a will.
- Receive personal mail.
- Ask the court to end the conservatorship or ask for a different conservator. If the individual tells the court they want the conservatorship to end, the judge must give the individual an attorney to help them. The judge must also set a hearing to decide if the individual still needs a conservator.
- See the [Rights of an Individual with I/DD in a Conservatorship](#)

Who can be appointed as a limited conservator?

The court decides who is the conservator. A conservator can be a person or an agency. The judge must consider who the proposed conservatee wants as their conservator.

A conservator must be 18 years of age or older. They can be a family member, a friend or a private professional conservator.

A conservator can also be an agency. Examples of agencies who can be a conservator are a county public guardian or the director of the Department. A regional center can no longer be appointed as a conservator. Information about when the Department director can be a conservator is in Part 4 of the Information Packet.

What are the steps in the limited conservatorship process?

- **A conservatorship petition is filed with the court.** The petition must have specific information including why the individual cannot provide for their needs, and alternatives to conservatorship considered and tried and why they will not meet the conservatee's needs.
- **The proposed conservatee gets a copy of the petition.** Copies of the petition are also sent to some of the proposed conservatee's adult relatives and the regional center where the individual receives services.
- **A court investigator is assigned.** The investigator interviews the proposed conservatee. They explain the conservatorship petition to the individual. They ask the individual if they want to challenge the petition and if they agree or disagree with the proposed conservator. They will also ask if the individual wants to attend the hearing. Their recommendations tell the court what they think is in the individual's best interest.
- **Regional center must assess the individual and if the individual agrees provide a report to the court.** The report provides information about the individual's disability and the type of help the individual needs. The report makes recommendations about the rights the individual should keep and the rights the conservator should have. The individual and their attorney will get a copy of the report at least 5 days before the court date.
- **The proposed conservatee gets an attorney.** A judge must appoint an attorney to represent the individual. This attorney should tell the court the individual's expressed interest. This means what the individual wants, not what the attorney thinks is best.
- **The court will hold a hearing about the conservatorship.** The individual must go to the hearing unless the judge says they do not have to attend.

What information does an individual get if a conservatorship is approved?

Within 30 days of approving a conservatorship, the court must provide a conservatee with plain language information about their rights. The information must include:

- 1) The name and contact information of the conservator;
 - 2) A description of the conservatorship, including the rights the conservatee retains;
 - 3) The role, duties, and contact information for the court investigator;
 - 4) Contact information for the person to begin the process to end the conservatorship; and
 - 5) A personalized list of rights the conservatee retains under the conservatorship.
- [Rights of an Individual with I/DD in a Conservatorship](#)

What information does a conservator get about their rights, responsibilities and limits on their power?

The court must provide all conservators with written information about their rights and responsibilities. [Rights and Responsibilities of a Conservator](#)

Are conservatorships reviewed?

Every conservatorship is reviewed. Reviews happen:

- Six months after the initial appointment of the conservator, one year after the initial appointment and annually thereafter. The court investigator meets with the conservatee and reports their findings to the court. The report includes information about the appropriateness of the conservatorship and whether the conservatee's needs are met. The report will also say whether the conservatee wants to end or modify the conservatorship and say if other less restrictive options could be tried.
- When the conservatee, conservator, or another person tells the court they want the conservatorship to be reviewed. This usually happens by filing a petition showing that a limited conservatorship is no longer needed. The court may schedule a hearing to consider termination or modification of the conservatorship.
- When a petition is filed saying a conservatorship is not needed. The petition can be filed by the conservatee, the conservator or by any relative of the conservatee.

When does a limited conservatorship end?

A conservatorship ends when:

- The court orders the termination of the conservatorship. This usually happens when a petition is filed saying the conservatorship is not needed. This petition can be filed by the conservator, the conservatee or by a relative or friend of the conservatee. The court will usually schedule a hearing to review the need for a conservatorship. If

the conservatee and conservator agree that a hearing is not needed and state facts showing that both the conservator and conservatee wish to terminate the conservatorship, the court may terminate the conservatorship without a hearing.

- The conservatee dies; or
- The conservator dies and no other conservator is appointed by the court.

Part 4: When the Department Director Is Appointed as the Conservator

When can the Department Director be appointed as a conservator?

The Director of the Department can be nominated as a conservator in a conservatorship petition. Occasionally, a regional center, county adult protective services or a public guardian, requests that the Director of the Department become the conservator.

When this happens, the Department reviews the nomination request. The Director of the Department accepts a nomination only as a last resort and only when:

- The conservatorship is needed to protect the health, safety and well-being of the individual with I/DD;
- There are no alternative ways to support the individual; and
- There is no other person or entity that is able to serve as the conservator.

How does the Director of the Department carry-out their conservatorship responsibilities?

The Department maintains close contact with the conservatees of the Director of the Department. It does this by meeting with its conservatees, as needed, and by reviewing reports from the regional center and information from others who have contact with the conservatee. The Department also works with its conservatees and their regional center to encourage maximum self-reliance to develop and implement less restrictive options to conservatorship.

What is the regional center's role when the Director of the Department is an individual's conservator?

The regional center continues to provide service coordination for the individual. In addition, the Director of the Department will designate its conservatorship responsibilities to the regional center.

The Department developed guidelines to help avoid any conflicts of interest when a regional center provides service coordination and is the delegated conservator. These guidelines require regional centers to:

- Monitor the health, safety, and well-being of a conservatee
- Maximize the conservatee's autonomy to make their own decisions
- Consider ways to increase the abilities of the conservatee
- Explore alternatives to conservatorship

- Conduct an assessment about the need for a conservatorship
- Separate the case coordination functions and the delegated conservatorship functions

The regional center staff who carry out the day-to-day conservatorship duties must:

- Meet with the conservatee quarterly
- Tell the conservatee about decisions made on their behalf
- Express concerns they or the conservatee have
- Provide information about the conservatee for an assessment
- Support the conservatee in meetings and assessments
- Assist the conservatee in resolving concerns or referring them to resources that could assist them with their concerns
- The guidelines are here: [Guidelines to Mitigate Conflicts for Delegated Conservatorships - 2024](#)

If I disagree with the way the regional center is carrying out its delegated conservatorship responsibilities, what can I do?

The individual can request help from the Department by reaching out to:

Department Conservatorship Liaisons

Email: DDSConservatorships@dds.ca.gov

Phone Number: (833) 421-0061

The Office of the Ombudsperson is also available to provide information and help facilitate resolution. They can be reached at:

Email: Ombudsperson@dds.ca.gov

Phone Number: (877) 658-9731

Website: [Office of the Ombudsperson: CA Department of Developmental Services](#)

The individual can also request help from an advocacy organization such as the Office of Client's Rights Advocacy. Information about OCRA is here:

<https://www.disabilityrightsca.org/what-we-do/programs/office-of-clients-rights-advocacy-ocra>

Can a regional center be a conservator for an individual with an I/DD?

After January 1, 2023, neither the regional center nor a regional center employee or another person acting on the regional center's behalf can be appointed as an individual's conservator. The regional center may be the designee of the Department.

How does the Department review the conservatorships of the Director of the Department?

The Department periodically monitors each conservatee and reviews the need for the conservatorship and the conservatorship powers. The Department's current process for reviewing its conservatorships is:

- Timely review of a regional center's comprehensive information about each conservatee. This includes monthly status updates and a biennial comprehensive review which includes the need for the conservatorship and alternative ways to support the conservatee.
- The Department monitors for health and safety concerns and confirms the conservatee lives in the least restrictive environment, is treated with dignity and respect and that their rights are protected. The Department confirms the conservatee receives appropriate services and supports and identifies other services and supports the individual needs to increase their decision-making skills and become more independent.
- The Department monitors for conflict mitigation and for appropriateness of the conservatorship. If the conservatorship is no longer needed, the Department will recommend to the court to terminate the conservatorship.