

Allocation of Parental Responsibilities (APR), Relative Guardianship Assistance Program (RGAP) & Guardianship

Alison Jensen
OCR Core Competencies II
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Relevant Law

- D&N court has exclusive jurisdiction to appoint a guardian or determine APR for a child in a D&N
 - §§ 19-1-104(1)(c), (4)–(6); 15-14-106; 14-10-123(1)
- Certify the custody issue into the D&N
 - § 19-1-104(4)-(5); C.R.J.P. 4.4(a)
- UCCJEA
- Need jurisdiction = adjudication

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Allocation of Parental Responsibilities (APR)

- *Applicable to Relative Guardianship Assistance Program (RGAP) too*
 - *RGAP = APR + ongoing monthly financial assistance*
- Determines
 - Where the child will live – primary residential custodian
 - Parenting time with other parent or both parents
 - Decision-making for major decisions
- Given to parent, parents, relatives, combination, rarely foster parents
- Motion filed by parents, intervenors, GAL, or CFY

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APR Determination



Focuses on best interest of the child, not custodial rights of parent like in Domestic Relations case



Ordered in D& court, certified into DR case (existing or new)



Permanent until and unless legal custodian agrees or court changes

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Relative Guardianship Assistance Program (RGAP)

- APR (or guardianship) + ongoing monthly financial assistance
- Relatives/kin
 - In certified placement for 6+ months
- Foster parents
 - Child 12+ (or sibling)
 - Youth consents
 - Substantial psychological tie
 - Adoption/reunification not appropriate
 - In placement for 12+ months

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Exploring Permanency through APR/RGAP

Would child/youth be open to APR/RGAP?

- Would youth consent to adoption?

Would caregiver be open to APR/RGAP?

- Can termination of parental rights be proven?

Will caregiver need substantial financial assistance if APR granted?

- Are they able to become certified?

Begin discussions right away

- RGAP = certification + 6/12 months + 60 days after financial assistance negotiations
- Permanency planning hearings

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Permanency through APR/RGAP

APR hearing

APR terms

- Flexible? Very specific? Something in between?
- Youth input

APR order

D&N case closure

Future modification

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Guardianship

- Ordered in D&N and filed into probate court
 - Child 12+ must consent
 - Appointment of guardian is in child's best interest
 - Parents consent, parental rights terminated, parents unwilling or unable to exercise parental rights, or guardian has died or incapacitated without plan
- Annual report by guardian
- Future modification and termination
 - Fit parent's position presumed to be in child's best interest

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