

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

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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



Permanent until and unless legal custodian agrees or court changes



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

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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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