

Guardianship and Conservatorship Program Regulations

407 Residential Decisions

407.1 The guardian shall take reasonable measures to implement the residential preferences of the individual subject to guardianship.

407.2 The guardian shall select a residential setting the guardian believes the individual would select if the individual were able, in accordance with the decision-making standards in RCW 11.130.325 (4) and (5) and Regulation 405. If the guardian does not know and cannot reasonably determine what setting the individual probably would choose if able, or the guardian reasonably believes the decision the individual would make would unreasonably harm or endanger the welfare or personal or financial interests of the individual, the guardian shall choose in accordance with RCW 11.130.325(5) and Regulation 405 a residential setting that is consistent with the individual's best interest.

RCW 11.130.330 (5)

407.3 The guardian shall give priority to a residential setting in a location that will allow the individual to interact with persons important to the individual and meet the individual's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in RCW 11.130.325 (4) and (5) and Regulation 405 .

RCW 11.130.330 (5) (b)

407.4 The guardian shall acknowledge the need to allow all individuals the opportunity to engage in activities and live in conditions which are culturally and socially acceptable within the context of the individual's cultural and life values.

407.5 The guardian shall know the current state of the law regarding limits on the guardian's authority as to residential decisions, including:

407.5.1 A guardian for an adult shall not initiate the commitment of the adult to an evaluation and treatment facility except in accordance with the provisions of chapter 10.77, 71.05, or 72.23 RCW

RCW 11.130.335 (2)

407.5.2 A guardian may establish or move the permanent place of dwelling of the individual to a care setting that places restrictions on the individual's ability to leave or have visitors only if:

- (i) The establishment or move is in the guardian's plan under RCW 11.130.340;
- (ii) The court authorizes the establishment or move; or
- (iii) The guardian gives notice of the establishment or move at least fourteen days before the establishment or move to the individual and all persons entitled to notice under RCW 11.130.310(5)(b) or a subsequent order, and no objection is filed.

RCW 11.130.330 (5) (d)

407.5.3 A guardian may take action that would result in the sale of or surrender of the lease to the primary dwelling of the individual only if:

- (i) The action is specifically included in the guardian's plan under RCW 11.130.340;
- (ii) The court authorizes the action by specific order; or
- (iii) Notice of the action was given at least fourteen days before the action to the individual and all persons entitled to the notice under RCW 11.130.310(5)(b) or a subsequent order and no objection has been filed

RCW 11.130.330 (5) (f)

407.5.4 The guardian may not establish or move the individual's dwelling outside the state unless consistent with the guardian's plan and specifically authorized by the court.

RCW 11.130.330 (5) (e)

407.6 The guardian shall not remove the individual from his or her home or separate the individual from family and friends unless such removal is necessary to prevent significant harm or because of financial constraints. The guardian shall make reasonable efforts to ensure the individual resides at the individual's home or in a community setting.

407.7 The guardian shall, to the extent possible, select residential placements which enhance the quality of life of the individual, provide the opportunity to maximize the independence of the individual, and provide for physical comfort and safety.

407.8 Before relocating the individual to a new residence, the guardian shall consult with, and give timely notices as required by law, to the individual, and should consult with, and give timely notices as required by law, to professionals, notice parties, and other third parties who demonstrate sufficient interest in the welfare of the individual to the extent doing so does not put the individual, the guardian, or the guardian's staff at risk of personal harm. Emergency residential decisions to protect the individual may be made without prior consultation.

407.9 The guardian shall, as necessary, thoroughly research and evaluate the individual's residential alternatives.

407.10 Should the only available residential placement not be the most appropriate or least restrictive, the guardian shall regularly review alternatives to that placement and shall make reasonable efforts to arrange an appropriate and least restrictive residential alternative.

407.11 The guardian shall regularly monitor the individual's residential placement to ensure that it is appropriate and that such placement is the least restrictive alternative. The guardian should consent to changes, as they become necessary, advantageous, or otherwise in the individual's best interests. The guardian should consider that even changes within an existing residential facility may have an impact on the quality of life of the individual.

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