



POLICY AGENDA

2022–2023

Project Guardianship (PG) provides person-centered care for older adults and individuals living with disabilities and mental illness who need help making decisions. We also transform the systems that support them to ensure safety, promote independence, preserve dignity, and advance racial and social justice. This agenda is designed to improve the guardianship system in New York State by highlighting legislative actions that would advance our vision of a world where older adults and those with disabilities are celebrated and provided with the support and care they need to thrive and live with pride.

Below are our legislative priorities that we are asking New York State to address and support.

1 Fund Nonprofit Guardianship Services

Today, there is no dedicated funding stream for agency guardianship services across New York State. If a person has resources, guardianship fees are paid out of the income and assets of the person under guardianship. For those without resources, there is a patchwork of nonprofit providers that struggle to fund and deliver services in relation to the demand.

CALL TO ACTION

- Pass a \$15M statewide guardianship appropriation
- Engage community partners in the formation of a statewide nonprofit guardianship provider network

2 Designate a NYS Agency to Govern Guardianship

Guardianship overlaps with multiple social issues and government agencies. Guardianship does not currently have a designated “home” in our state government. The NYS Unified Court System (UCS) addresses it in part because the appointment and oversight of a guardian is a court function. But guardianship is much bigger than legal services and court involvement. If UCS becomes the “home”, the agency needs additional resources to address the social service needs that are often much larger than the legal service requirements of the case.

CALL TO ACTION

- Recognize the importance of the above issues and commit to addressing them legislatively
- Mandate a New York State office or agency to oversee Article 81 guardianship to centralize guardianship services, act as a guardianship clearinghouse, and help advance the above and below policy priorities



3 Establish a Guardianship Database

A lack of comprehensive and reliable data prevents practitioners and advocates from mobilizing around guardianship trends and needs. With adequate data on the scope of guardianship petitions, appointments, and assignments, as well as demographic and geographic data on individuals in guardianship arrangements, we can advance a more equitable guardianship system statewide.

CALL TO ACTION

- Form a committee of guardianship stakeholders and nonprofit providers to determine the necessary and optimal dataset for a statewide guardianship database
- Assess and identify potential data sources and data-sharing opportunities
- Establish, promote, and maintain an official New York State Guardianship Database

4 Support Lay Guardians

Nonprofessional or “lay” guardians make up the most guardians in New York and across the country. At Project Guardianship, we favor the appointment of lay guardians because we know that friends and family members are often best positioned to understand the wishes and meet the needs of those with guardianship arrangements. However, limited training, resources, and ongoing support for lay guardians both deter more people from stepping into the role and limit the efficacy of those who do.

CALL TO ACTION

- Develop, promote, and ensure the continuous quality of a set of robust resources for lay guardians
- Provide ongoing informational training sessions as well as advanced and individualized technical assistance for lay guardians to supplement the resources
- Ensure that all new resources for lay guardians are accessible to non-English speakers, those who are deaf or hard of hearing, and those living with disabilities

5 Promote Alternatives to Guardianship

While guardianship is a necessary legal tool that—when applied with a person-centered approach—can be used to ensure the safety and dignity of people with limited capacity, it should always remain a last resort. Unfortunately, due to a lack of information on, awareness of, and social programs offering less restrictive alternatives, as well as an absence of safeguards to ensure that guardianship is indeed the last resort, unnecessary guardianship arrangements can occur. Reducing reliance on the guardianship system not only protects individuals’ rights, it also saves public dollars.

CALL TO ACTION

- Provide and promote education on less restrictive alternatives to guardianship, including advance directives, powers of attorney, health care proxies, supported decision-making, and more



- Increase access to civil legal services for people who cannot afford to hire an attorney
- Run a targeted campaign for social service providers in various sectors to learn about guardianship alternatives and amplify the call for preventative measures with the communities they serve
- Fund the pilot testing of supported decision-making arrangements for individuals being considered for Article 81 guardianship in New York
- Test creative solutions to less restrictive services and legal tools for people with little resources and no family or friend supports

6 Improve Oversight of Guardians

A 2011 study by the Brookdale Center for Healthy Aging found that the monitoring of guardians in New York State is “very limited, primarily due to poor compliance with reporting requirements and a lack of timely review of submitted reports.” This lack of oversight can lead to unnecessary institutionalizations and unchecked exploitation, isolation, and abuse, all of which have dire consequences for those with guardianship arrangements, their friends and family, and the broader public.

CALL TO ACTION

- Provide additional resources to help guardians comply with reporting requirements and court personnel to complete timely reviews of submitted reports
- Publicize and support the process for identifying and prosecuting guardianship abuse

7 Normalize Guardianship Termination and the Restoration of Rights

It can be very difficult for a person under guardianship to seek termination of the guardianship when the guardian does not agree that the arrangement should end. Better and clearer pathways to the restoration of rights are needed.

CALL TO ACTION

- Adopt statutory language and model practices for increasing the rate of restorations from the Uniform Guardianship, Conservatorship, and other Protective Arrangements Act and the National Probate Court Standards¹
- Assess the feasibility of an ombudsman program to investigate complaints and bring petitions to terminate guardianships when the guardian opposes but the ombudsman determines that guardianship is no longer necessary

To learn more about Project Guardianship’s advocacy work and policy priorities, please email info@projectguardianship.org.

¹ <https://ncler.acl.gov/Files/Guardianship-Termination-Restoration-of-Rights.aspx>