



Legal Process for Modifying or Terminating a Guardianship

In Colorado, persons under guardianship have a right to an attorney even after a guardian has been appointed.¹ If a person under guardianship wants to modify their guardianship, i.e. change who their guardians are, or terminate their guardianship, they have a right to be represented by an attorney. This right is only limited by the person’s capacity to give their informed consent to enter into an attorney-client relationship.² Below is a flow chart of the legal process for determining whether the person under guardianship has capacity to give informed consent and thus, to have an attorney represent them at their guardianship modification or termination hearing.

STEP 1: Submit a Petition to the District Court

- You must file the paperwork to end the guardianship with the same court that has the existing guardianship case, using the same case number assigned to that case.
- Fill out JDF [852](#) and the top “caption” part of JDF [854](#).
- Give notice of the hearing to interested parties using [JDF 711](#).
- Complete instructions can be found on the [Colorado Judicial Branch’s website](#).



STEP 2: Hearing on Whether the Person Under Guardianship Can Give Informed Consent

- This hearing should only be evaluating the person’s ability to give informed consent to enter into an attorney-client relationship.
- This hearing should not be evaluating whether the person under guardianship is still legally “incapacitated.”

If the court decides: *Yes, the Person Under Guardianship **Can** Give Informed Consent*

If the court decides: *No, the Person Under Guardianship **Cannot** Give Informed Consent*

STEP 3: Person Under Guardianship Can Get an Attorney

- If the person is low-income, the court will pay for and appoint an attorney to represent them in the guardianship modification or termination hearing.
- If the person is not low-income, the person’s estate must pay for the attorney.

STEP 3: Ask the Court to Appoint a Guardian Ad Litem (“GAL”)

- The GAL can file an appeal or investigate the reasons why the person under guardianship wants to modify or terminate their guardianship, which could lead to changing the person’s guardian(s).

¹ See COLO. REV. STAT. § 15-14-319(1) (West 2022) (effective Aug. 10, 2016); see also *Milstein v. Ayers*, 955 P.2d 78, 80-81 (Colo. App. 1998).

² The person under guardianship has a right to an attorney post-adjudication of their guardianship “unless the court finds by clear and convincing evidence that the [person under guardianship] lacks sufficient capacity to provide informed consent for representation by a lawyer.” COLO. REV. STAT. § 15-14-319(1).