

# What is the difference between durable and permanent guardianships?



Adoption has long been seen as the pinnacle of permanency planning when timely reunification is not possible. But lately, families have been turning increasingly to guardianships. Guardianship can often help children exit foster care more quickly than adoption. It is an effective way for children to gain permanence in cases where the children want to return home eventually, but the parents need more time than ASFA permits to remedy their jurisdictional issues. And, it is the permanency solution favored by many tribes that do not permit their children to be adopted outside the tribe. Permanent guardianship has the benefit of being as permanent as adoption throughout a child's youth, and both types of guardianship provide a level of personalization and flexibility that adoption can sometimes preclude.

The chart below outlines some of the differences and similarities between the two types of guardianships available to youth in care in Oregon.

	<b>DURABLE GUARDIANSHIP</b>	<b>PERMANENT GUARDIANSHIP</b>
Statute	ORS 419B.366	ORS 419B.365
When is this type of guardianship possible and appropriate?	When: -the child cannot safely return to the parent within a reasonable time -adoption is not an appropriate plan -the proposed guardian is fit and willing -guardianship is in the child's best interest -the Court considers child's wishes	When it is in the child's best interest that the <b>parent never has physical custody of the child again</b> , but parental rights cannot be or are not terminated.
Duration	As long as child is a ward of the court (up to age 21) or until vacated.	
Who may file a motion with the Court to modify this type of guardianship?	Any party (including the parents).	The child or guardian; <b>Parents cannot.</b>
On what grounds could the Court decide to vacate a finalized guardianship and return the child to the parents?	When any party files a motion to vacate the guardianship, and the Court finds that it is in child's best interest to vacate, and that conditions and circumstances giving rise to the guardianship have been ameliorated, and that the parent is presently able and willing to adequately care for child.	When <b>the child or guardian</b> files a motion to vacate the guardianship, and the Court finds that it is in child's best interest to vacate, and that conditions and circumstances giving rise to the guardianship have been ameliorated, and that the parent is presently able and willing to adequately care for child.
What is the "best interest" of the child?	When determining "best interest" of the child, the following is considered: 1) the child's emotional and developmental needs 2) the child's need to maintain or form attachments/relationships, including with birth family 3) the child's health and safety 4) the child's wishes 5) anything else the court wants to consider	
Other factors to consider?	-ODHS can provide guardianship assistance to continue for young adults through age 21 when the guardianship was finalized after age 16 and they meet certain criteria. Otherwise, guardianship assistance (like adoption assistance) ends at age 18. -Children in either type of guardianship may change their name to match the name of their guardianship family.	