

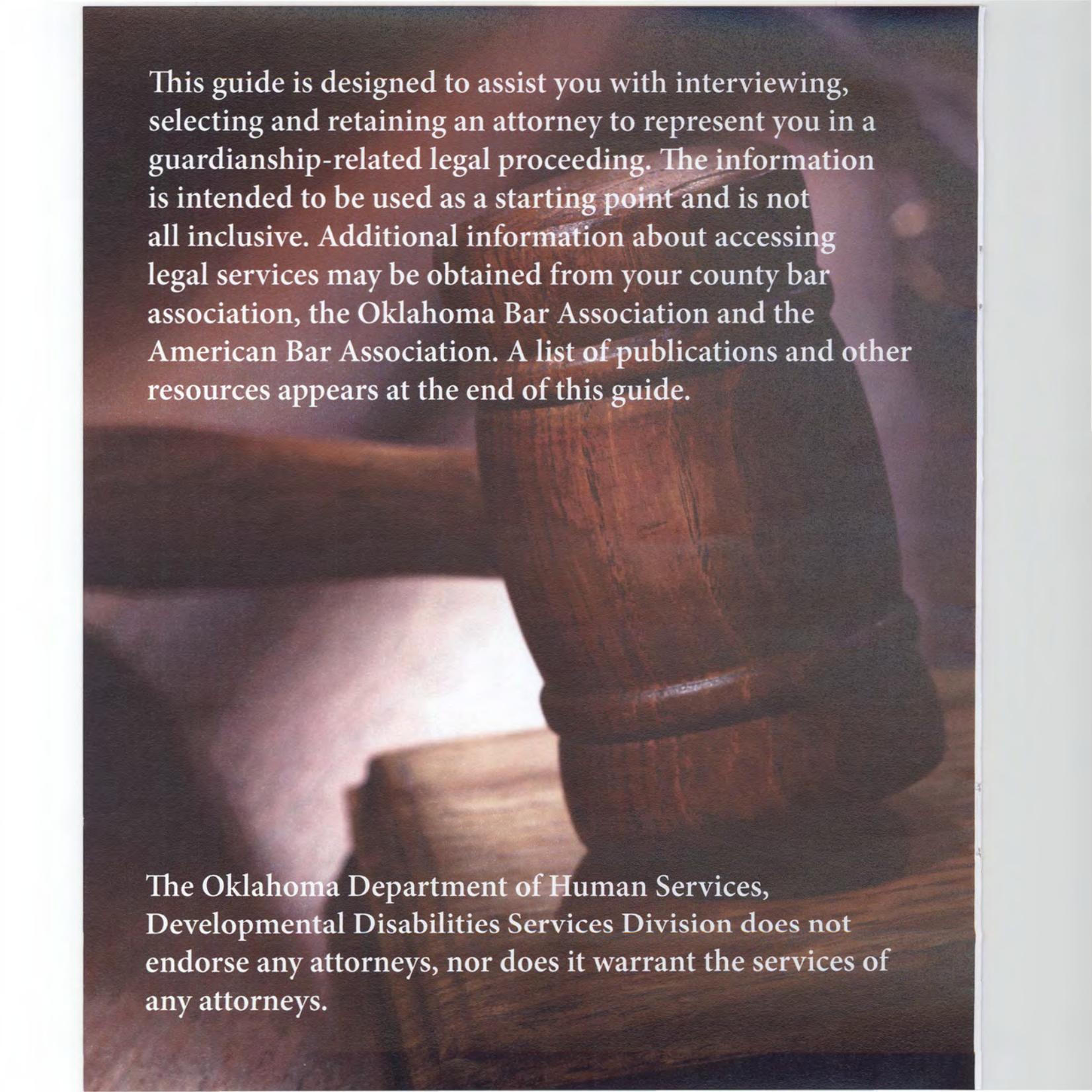
# Attorney Selection Guide

for Persons Using  
the OKDHS/DDSD Voucher  
for Payment of Guardianship  
Related Legal Expenses



OKLAHOMA DEPARTMENT OF HUMAN SERVICES





This guide is designed to assist you with interviewing, selecting and retaining an attorney to represent you in a guardianship-related legal proceeding. The information is intended to be used as a starting point and is not all inclusive. Additional information about accessing legal services may be obtained from your county bar association, the Oklahoma Bar Association and the American Bar Association. A list of publications and other resources appears at the end of this guide.

The Oklahoma Department of Human Services, Developmental Disabilities Services Division does not endorse any attorneys, nor does it warrant the services of any attorneys.

## Where to Look for an Attorney

Recommendations from friends, family, co-workers and others may be helpful in your search for an attorney. In addition, attorneys whom you know, or have utilized in the past, may be able to refer you to another attorney with experience in handling guardianship matters.

Many state and local bar associations operate lawyer referral and information services as a public service. These services may be provided for a small fee or free of charge. They are designed to help you find the appropriate lawyer to help you solve your legal problem. Keep in mind, however, that these services do not offer legal advice or free legal services.

Legal directories, which may be found at your local library, provide a listing of attorneys practicing in your area. Advertisements in telephone directories and other publications also provide a pool of potential attorneys.

You may want to find out if the Legal Aid, Legal Services or law school legal clinics in your community will take your particular case. Many of these offices limit the types of cases they accept and have strict income guidelines. In addition, federally funded legal aid offices may not be able to accept payment for services through the voucher.

Finally, the Developmental Disabilities Services Division has compiled a list of attorneys throughout the state who have indicated an interest in accepting the voucher. DDSD does not endorse any of these attorneys, nor does DDSD warrant their services. The list is simply provided as a service to individuals served by DDSD. You may obtain this list from your DDSD case manager or guardianship coordinator.

### Reality Check

**No one you listen to and nothing you read will tell you which particular lawyer will be the best for you; you must judge that for yourself.**

## **Questions to Ask Before Hiring a Lawyer**

The initial interview is your opportunity to get to know the attorney, state your expectations and find out any expectations the attorney has of you. When deciding which of the following questions to ask during the interview, ask yourself which of these issues is important to you.

- How many guardianship cases have you handled in the past?
- Will you or some other person do each stage of the work?
- How much will this cost?

Keep in mind that the Guardianship Voucher you have been issued will pay only up to \$700 in legal fees and related costs. Any fees the attorney charges above that limit will be your responsibility. If you are unable or unwilling to pay fees above that amount, you must make it clear to the attorney. You should also make sure that the upper limit is stated in writing in the fee agreement. (There will be further discussion of fee agreements later in this guide.)

- What are the possible outcomes of this case?
- How long will it take to complete this matter?
- What is the process for completing this matter?
- Will you keep me updated?
- How do I contact you in an emergency?
- If you are not available when I call, who can I speak to about my case?
- What is your policy about returning phone calls?
- Within how much time should I expect a return call?
- Which bar associations and professional associations do you belong to and in which ones are you active?

## **Fees and Fee Agreements**

There are various types of arrangements lawyers use to bill and collect their legal fees. These include hourly rates, flat fees and contingent fees. The type of fee arrangement will vary with the type of work the lawyer is performing.

In guardianship proceedings, lawyers will typically charge an hourly rate or a flat fee. Either of these fee arrangements is acceptable when using the voucher, as long as the attorney and client are in agreement about what happens if the fee rises above the \$700 voucher limit.

Hourly charges are based on the amount of time spent handling a matter. The attorney's hourly rate will depend on his/her experience and the demand for his/her services.

Flat fees are common for routine services such as wills, guardianships and some criminal matters. This fee will remain the same regardless of the amount of time the attorney spends on your case.

In addition to the legal fees for providing services, many attorneys charge the client the fees and costs associated with the guardianship. These fees and costs can include filing fees, court costs, copying charges, mileage, lodging, etc. A client who does not wish to pay fees and costs above the voucher limit must make that clear to the attorney. It is suggested that this understanding be reflected in the fee agreement. Court costs may be waived per Section 192 of Title 56 of the Oklahoma Statutes. If the potential ward is a recipient of Social Security benefits (or has applied for benefits and has not yet had a response), this law waives court costs associated with a guardianship proceeding. Not all attorneys are aware of this law, so you should make your attorney aware of it. A statement regarding this law is also included on the Guardianship Voucher.

After the fee has been negotiated, it is important to have a written contract called a fee agreement. It is strongly recommended that you and your lawyer sign a fee agreement. A fee agreement ensures that the attorney and client are clear about what services the attorney will provide and what those services will cost the client. Like any contract, the fee agreement should be carefully read and understood before being signed.

A fee agreement should include the following information:

- Attorney's name
- Client's name
- The legal matter that the attorney will complete
- Minimum and maximum fees
- Payment arrangements for other fees and costs associated with the guardianship. If applicable, include a statement that Section 192 of Title 56 will be invoked.

## What a Client Can Expect from an Attorney

Every attorney should provide a quality work product and represent the client effectively and professionally.

An attorney should always discuss possible actions to be taken in a case with the client and then follow the client's decisions.

Attorneys must act carefully and quickly in handling a legal problem.

Attorneys must communicate with their clients and inform them of any changes in the case. Explanations about the case should be given to the client within a reasonable time of being asked of the attorney.

Legal fees must be 'reasonable' and the fee should be discussed and agreed upon before or shortly after the attorney is hired.

An attorney must keep information about his or her client and the case confidential. He or she may not tell anyone else what the client reveals about the case. The client should be able to discuss all details of the case openly and honestly with the attorney, without fear that the information will be passed on to others.

An attorney must be loyal to a client. He or she cannot represent another client who is on the opposite side of the same or related case, unless the conflict is revealed to both clients and both clients agree to the representation. An attorney cannot accept a case from a client whose interests conflict with the attorney's interests.



## What the Attorney Expects from the Client

A client must be honest with his or her attorney by disclosing all the facts of the case.

A client should promptly notify his or her attorney about any changes in the case or of new information the client has learned about the case.

Whenever a client has a question or is confused about something in the case, the client should ask for an explanation.

A client should be realistic about what an attorney can do for him. Attorneys can only handle legal matters. An attorney should not be expected to solve other problems that are better handled by an accountant, banker, case manager or psychologist.

## Resources

Oklahoma Bar Association, Lawyers & Legal Fees brochure (2008).  
[www.okbar.org/public/brochures/lawyerbroc.htm](http://www.okbar.org/public/brochures/lawyerbroc.htm)

Oklahoma Bar Association  
1901 N. Lincoln Blvd.  
Oklahoma City, OK 73105  
(405) 416-7000  
(800) 522-8065  
[www.okbar.org](http://www.okbar.org)

American Bar Association  
321 North Clark Street  
Chicago, IL 60654-7598  
(800) 285-2221  
[www.abanet.org](http://www.abanet.org)



The above noted publication served as a reference for the development of this Attorney Selection Guide.

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