



Life After Permanency: Advocating for Families when TPR is avoided

Tulalip Office of Civil Legal Aid
Eric Kushman, Sylvia Hanna, Lindsay Zerfas, Chori Folkman


Children's Justice Conference May 5, 2026

Roadmap

1. Background of Tulalip Child Welfare

2. Tulalip's Guardianship Statute

3. Guardianship Termination

- ✓ By the guardian
 - ✓ By the parent
 - ✓ By the youth
 - ✓ By beda?chelh
- 

Roadmap

4. Court considerations and guiding principles in terminating a guardianship.

5. Moving the needle in Washington's Child Welfare System





Tulalip Child Welfare System Overview

- **Our child welfare agency is called beda?chelh, which is a Lushootseed word meaning “our children”**
- **Tulalip usually takes jurisdiction of child welfare cases from all over the country when a Tulalip child is involved.**
- **beda?chelh serves as the primary child welfare program serving families involved in Tulalip guardianship and dependency cases.**



Tulalip Child Welfare System Overview

- **Tulalip works with DCYF through an MOU regarding jurisdictional obligations***
- **The Tulalip Office of Civil Legal Aid is a law office and separate department within the Tulalip Tribal government which provides legal representation for parents and youth in tribal dependency and guardianship cases**

* The DCYF/Tulalip MOU can be accessed at:

<https://dcyf.wa.gov/sites/default/files/pdf/tulalipAgreement.pdf>

Tulalip Tribal Code § 4.05 – Juvenile and Family Code

- **The purpose of this code “is to protect children and to create systems and structures that preserve opportunities for children to learn about their unique culture and heritage and to become productive members of the Tulalip Tribal community.”**
- **The Juvenile and Family Code believes that the child is best served in the context of families and that families are best served in the context of their community. *Maintaining the child in the home of their natural parents is a major purpose of this chapter.***



Tulalip's Guardianship Statute



Legal Guardianship - Purpose

“A guardianship should provide permanence, a stable home, and a responsible and emotionally supportive caregiver to the child *without terminating a parent’s rights.*”

TTC 4.05.660(1)



Legal Guardianship - Purpose

For dependent youth, there is a presumption that guardianship is in the child's best interest if the following has occurred:

- (a) The child has been adjudicated a youth-in-need-of-care (dependent);
- (b) The parent was given the requisite time period to reunify with the child;
- (c) *The permanent plan for the child was changed from return home to a permanent plan of guardianship.*



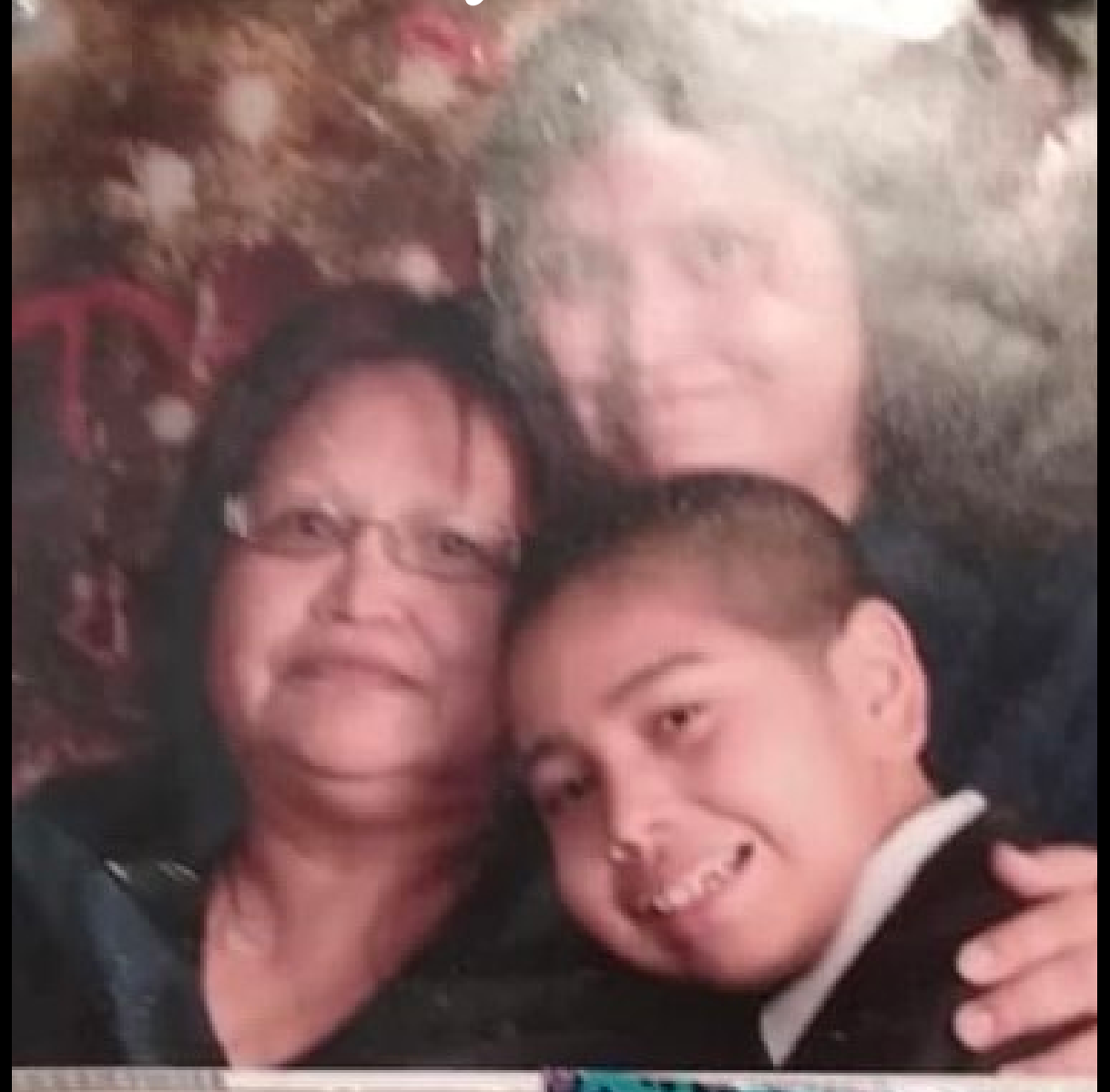


A Critical Component of Guardianship: The Cultural and Family Plan

A petition for guardianship must include “a plan to maintain the child’s ties with their family, the Tribes, and their culture.” TTC 4.05.670(2)(f).

For all (older) guardianship cases in which a cultural and family plan has not been filed with the Court, the guardianship social worker must work with the guardian(s) to create a plan and file it with the Court once this omission is discovered.

Keeping families connected over the years: Tulalip Guardianship Cultural and Family Plans



**The court and the child welfare
department have an ongoing
obligation to review guardianships**





Out-of-Court Guardianship Review

- 1. The department reviews guardianship cases at least semiannually for a period of three years. The content of these reviews are kept internally and are available by request by the guardians only.**
- 2. If any continuing support or services are determined to be needed by the guardianship review team, the guardian review period may be extended past three years at the department's discretion.**



Out-of-Court Guardianship Review

- 3. beda?chelh has the ability to file motions in guardianship cases to request judicial review of a case to address any concerns that may arise. The Court may order the guardian(s) to participate and comply with services to alleviate such concerns.**
- 4. Parents and Youth also have the ability to file motions in guardianship cases to request judicial review of a case to address concerns.**



Visitation is a key consideration

“The Court may order a guardian to let the parent(s) visit or contact the child, but the Court may also put limits or other conditions on the visitation, such as requiring that any visitation be supervised.” TTC 4.05.690(d)

The time and frequency of visitation is up to the guardian to decide, *or by Court order.*

Guardianship Termination and Modification

The process for terminating or modifying guardianship depends on the moving party: the guardian, the parents, the youth, or beda?chelh

Relinquishment of Guardianship by Guardian

The guardian must first show efforts preserve the guardianship. TTC 4.05.700(1)(a)

- 1) A guardian must show they have met with a beda?chelh guardianship social worker and Tulalip's family services agency to discuss services that they can engage with to help preserve the guardianship.
- 2) A guardian also must show that they have worked with beda?chelh and Tulalip's family services agency for at least 90 days before they are able to file a guardianship relinquishment.



Procedure for Guardians to Relinquish

- 1. The Court reviews the motion, efforts made to maintain the guardianship, and documentation of services provided to the family to determine if there is prima facie evidence to substantiate the setting of a hearing.**
- 2. If the evidence suffices to set a hearing, the Court will set a preliminary hearing for the motion.**



Procedure for Guardians to Relinquish

- 3. The court will have a family resource meeting with the guardian(s) and youth to further determine any additional resources or services that may be helpful to assist in maintaining the family unit.**
- 4. At the motion hearing, the Court will determine whether good cause exists and if relinquishment is in the best interest of the child.**
- 5. If the guardianship is dismissed, the youth's dependency case is re-opened and placement is considered.**



Guardianship Termination by Parents

Over time, parents often find themselves in a different place than where they were during dependency

Parents may be able to regain custody of their child in the future if the Court determines the guardianship is no longer in their child's best interests. TTC 4.05.690 (d)



Guardianship Termination by Parents

The Code states the presumption is that the child should remain with their guardian if the child has been in the guardian's care for over three years or a majority of the child's life.

TTC 4.05.700(1)(b)(iv)

A parent must overcome this presumption by clear and convincing evidence.

TTC 4.05.700(1)(b)(v)



Eligibility

Parents are not eligible to petition to dismiss a guardianship if:

- 1) A parent did not appear in a dependency or engage in any sort of services for :
 - a) a child who came into care under the age of 3 OR
 - b) a child over the age of 3 and who has been placed in their guardianship home for more than 3 years.

TTC 4.05.700(1)(b)(i)



Guardianship Termination Process- Parent

- 1. A parent who can demonstrate that they have complied with services originally ordered in a dependency case *or* can show a substantial change in circumstances can move for dismissal of a guardianship. TTC 4.05.700(1)(b)(ii)**
- 2. If the child was placed out of the home due to substance use disorders, then the parent must demonstrate one year of documented sobriety through clean UAs and treatment records before a return home may be considered. TTC 4.05.700(1)(b)(iii)**



Guardianship Termination Process- Parent

3. The parent must provide documentation of the completed required services and move the court to find *prima facie* evidence to support setting a preliminary hearing. This motion is served on the guardians, and beda?chelh. TTC 4.05.700(1)(b)(iii)
4. If the Court finds prima facie evidence, then the Court will set a preliminary hearing on the Guardianship termination request.



Supporting parents in this process

TOCLA supports parents through the duration of the guardianship process:

1. Advocacy before and during the formation of a guardianship:

- Contesting the guardianship
- Litigating visitation
- Yehaw' (mediation)
- Agreed orders
- Case monitoring

3. After Guardianship legal advocacy (continued below)





Guardianship Parent Clients: Where do they come from?

- Former clients who keep in touch
- Former clients who become new clients and successfully complete a dependency
- Referrals from the community
- Referrals from Wellness/Drug Courts
- Referrals from beda?chelh
- Referrals from the guardians themselves



Guardianship Parent Clients: What's the Goal?

Parents come to us at all different stages of their lives/recovery, and that will be reflected in their goals.

Goals:

- ✓ Initial contact
- ✓ Visitation
- ✓ Expand communication with guardians
- ✓ Working with "difficult" guardians: Guardians who do not know the rules and their responsibilities to Tulalip and the children
- ✓ Dismissal/reunification



Guardianship Dismissal or Reunification Motions:

Preparing for the Motion:

1. Meeting
2. Learn history/develop goals
3. Research
4. Court records
5. Services
6. Collecting records
7. Collecting past UAs/ Starting UAs asap.



Guardianship Dismissal or Reunification Motions:

- 1) Thresholds to establish prima facie evidence in Motion:
 - a) Age of child.
 - b) Establishing 1-Year of sobriety.
 - c) Service completion OR
 - d) Other evidence of a substantial change in circumstances.

- 2) Once a hearing is obtained: *Creating an argument to show why relief requested is in the best interest of the child.*

Parent Post-Guardianship Representation Matters:

An interview with a parent discussing her path to dismissing her guardianship case and bringing her children back into her life.

<https://youtu.be/AaHanoAVsVs?si=v-1eHiRpnwTUUWDO>

Youth Advocacy in Guardianship Cases

Youth may request legal advocacy to:

- 1) **Support to maintain a guardianship or**

- 2) **To terminate guardianship**
 - **To come back into a dependency case OR**
 - **To return to their parent(s)**



How do youth find out about our services?

Community referrals:

- Teachers
- School counselors
- Service providers
- Family members
- beda?chelh
- Court



Three avenues we will be discussing:

1. Youth who are in guardianship and want to maintain the guardianship
2. Youth who want to terminate guardianship and return to their parents
3. Youth who want to terminate guardianship and go back into dependency with a new placement



Children's opinions are important

1. "When the child who is the subject of the petition for guardianship is 14 years of age or older, the Court shall consider his or her preference in appointing a guardian. The child may provide this preference to the Court through *bedahchelh*, a GAL or attorney, or appear in court to provide their opinion to the judge under any of the options available in [TTC 4.05.360](#)."

TTC 4.05.680

2. At Tulalip, children over 12 receive automatic court appointed counsel in dependency and most guardianship hearings



Youth maintaining guardianship

- **“After guardianship is granted, beda?chelh and the Court retain jurisdiction until the child turns 18... but no further Court review is required *unless there is a change of circumstances or a request for Court review is made.*”
TTC 4.05.710**
- **Under the Tulalip Code, all children have the right to counsel as parties in Tulalip dependency cases.
TTC 4.05.400**
- **The Code is currently silent re: requirements for a youth filing for support in the guardianship.**
- **Motions have been successfully filed by youth to dismiss guardianships under the requirements of a parent’s motion for dismissal, and legal advocacy has been provided to support preserving guardianships.**



Youth maintaining guardianship

When youth want to remain in their guardianship, but things are not going well...

Two options for relief by the Court:

- 1) The youth can contact beda?chel and ask for services to offer support to the family to help preserve the guardianship.**
- 2) The youth can motion the court for orders involving the guardianship.**



Youth terminating guardianship: return to parents

A feasible option when:

- 1) The parent(s) are already involved in the child's life AND/OR**
- 2) Are available and willing to reunify**



Youth terminating guardianship: return to parents

Preparing for the Motion:

- 1) **Connect parent(s) with a parent attorney for representation and advocacy**
- 2) **Advocate for progress such as:**
 - Resuming communication
 - Increased visitation
 - Implementing services to support increased visitation and/or reunification
- 3) **Work toward dismissal of guardianship and re-opening of YINC with placement with parent(s)**



Youth terminating guardianship: return to care

Legal Basis for Tulalip youth to motion the Court for termination of a guardianship:

**“A child within the jurisdiction of the Tulalip Tribes has the right to be treated with dignity and respect and to be in a safe and supportive environment free from abuse and neglect.”
TTC 4.05.330**



Youth terminating guardianship: return to care

- **When a youth is placed in guardianship through a dependency, the dependency case is held in abeyance, not formally closed.**
- **If a child's rights are being violated within the guardianship, they may move to dismiss the guardianship and re-open the dependency.**



Termination of guardianship by beda?chelh

- **Both beda?chelh and the Court retain jurisdiction to supervise the guardianship, even though formal review is not required past the first 3 years of guardianship.**
- **beda?chelh can move the Court to dismiss the guardianship on the grounds that clear and convincing evidence has shown that there has been:**
 - 1) A substantial change in circumstances
AND
 - 2) Dismissal is in the best interest of the child





Dismissal of a Guardianship Case

- **The previous dependency case is re-opened and the child becomes a ward of the Court**
- **bedachel immediately has custody and places the child**
- **A review hearing in the dependency case is set within 30 days to re-examine the permanent plan**
- **Services are offered in the re-opened dependency to work toward reunification, or another plan based on the youth's best interest.**



Outcomes of Tulalip Guardianship Case Legal Advocacy

- ✓ **More community and family ties**
- ✓ **Increased child safety and wellbeing**
- ✓ **More meaningful connection to culture and community**
- ✓ **Parents and children feel heard, seen, and valued**

Moving the Needle

How can post-permanency advocacy for children and parents in guardianship cases be implemented in Washington's Child Welfare System?



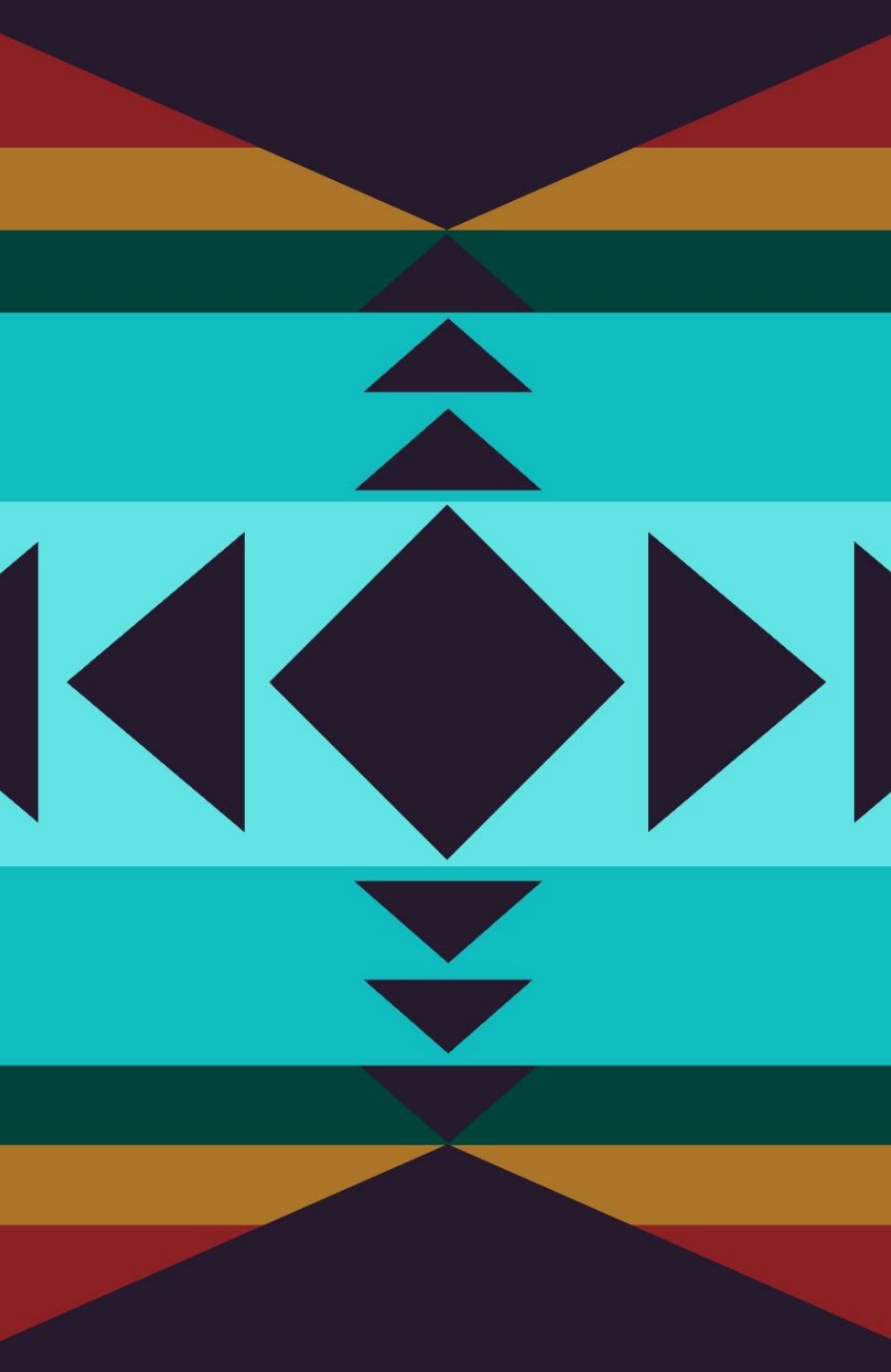
Child Welfare Stakeholders Could....

DCYF:

- ✓ Be able to monitor a guardianship case after dismissal with or without judicial review
- ✓ Refer families to court appointed counsel through a screening process if someone calls in for assistance to the end harm line

OCLA/OPD:

- ✓ Provide representation for children and parents during and after guardianships upon application by the child or parent, or appointment by the Court



Child Welfare Stakeholders Could....

OCLA:

- ✓ **Statewide civil legal aid providers could distribute know your rights information/referrals for requests for appointment of counsel to uphold parent and children's rights and ensure access to the Court during a guardianship.**

Partner Organizations who support youth:

- ✓ **Provide information and referrals to DCYF or organizations representing youth for legal advocacy and representation in guardianship cases.**



Questions? **tig^wicid! (Thank you!)**

To learn more about the **Tulalip Office of Civil Legal Aid** and our work, please visit:
<https://www.tulaliptribes-nsn.gov/LawAndJustice/TulalipOfficeOfCivilLegalAid>