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How can relatives control the action of the tutor or curator?

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A substitute curator may be appointed to monitor the actions of the curator. Similarly, a subrogate tutor may be appointed to monitor the actions of the tutor. The designated person shall inform the judge without delay if he finds any errors in the performance of his duties.

Subrogate Curator

The judge may appoint a substitute curator. If the curator is a parent or ally of the minor in one branch, the substitute curator shall be chosen, as far as possible, in the other. Where no family member or close relative can perform the duties of the subrogate, a judicial representative for the protection of adults may be appointed. The subrogate curator controls the actions of the curator. His responsibility can be taken.

Who is the substitute curator?

In order to avoid conflicts of interest and family tension, the judge may appoint a substitute curator. This can be:

- the person chosen in advance by the adult himself (the choice must have been made by an act written in whole by the hand of the adult or by authentic),
- the person with whom the protected person lives couple,
- one parent or a close person.

Where no family member or close relative can act as substitute trustee, the judge shall appoint a judicial representative to protect adults.

 **Please note :** the representative shall be required to perform urgent action, including provisional documents essential for the preservation of the protected person's heritage.

Role of the substitute trustee

The substitute curator monitors the actions of the curator (especially in case of errors). He has no power to oppose it. The law does not give him the power to manage himself. In the event of suspicion of the curator's mismanagement, his sole power is to refer the matter to the judge.

The substitute trustee shall assist or represent the protected person where the interests of the protected person are in conflict with those of the trustee (for example, in the case of a settlement of an estate). The curator cannot be judge and jury.

 **Please note :** when performing [inventory operations \(https://www.service-public.fr/particuliers/vosdroits/F33815?lang=en\)](https://www.service-public.fr/particuliers/vosdroits/F33815?lang=en), the substitute curator must be present.

Obligation to provide information

The substitute trustee has the obligation to inform the judge without delay if he finds that the trustee has committed errors in the performance of his duties.

The substitute curator must be informed and consulted by the curator first disposition act performed by him.

Liability

The responsibility of the substitute curator may be engaged

- if the substitute curator finds that the curator has committed errors in the performance of his duties and does not inform the judge without delay,
- or in the event of termination of the duties of the curator, and that he does not provide for his replacement.

End of mission

The mission of the subrogate curator ceases at the same time as that of the curator.

The curator's mission ends on the day the protected person dies.

The curatorship ends in particular:

- at any time if the judge decides that it is no longer necessary, at the request of the adult or of any person entitled to request a curatorship, after medical opinion,
- in the absence of renewal, at the expiry of the fixed period,
- if a guardianship measure replaces the curatorship.

Subrogate

The judge may appoint a substitute tutor. In the context of guardianship, the right to family council.. If the guardian is a parent or ally of the minor in his father's family, the substitute tutor is chosen, if possible, from his mother's family (and vice versa). If no family member or relative can assume the duties of the subrogate, a judicial representative for the protection of adults may be appointed. The subrogate guardian controls the actions of the guardian.

Who is the substitute guardian?

In order to avoid conflicts of interest and family tension, the judge may appoint a substitute curator. This can be:

- the person chosen in advance by the adult himself (the choice must have been made by an act written in whole by the hand of the adult or by authentic),
- the person with whom the protected person lives couple,
- one parent or a close person.

If no family member or close relative can take over the duties of substitute guardian, the judge shall appoint a judicial representative for the protection of adults.

 **Please note** : the representative shall be required to perform urgent action, including provisional documents essential for the preservation of the protected person's heritage.

Role of the guardian subrogate

Supervision of the acts of the guardian

The substitute tutor monitors the actions of the curator (especially in case of errors). He has no power to oppose it. The law does not give him the power to manage himself. If there is a suspicion of mismanagement by the guardian, his sole power is to refer the matter to the judge.

The substitute guardian shall assist or represent the protected person where the interests of the protected person are in conflict with those of the guardian (for example, in the case of a settlement of an estate). The guardian cannot be judge and jury.

If he has been appointed beforehand, the substitute tutor shall be present when the tutor causes [inventory \(https://www.service-public.fr/particuliers/vosdroits/F33815?lang=en\)](https://www.service-public.fr/particuliers/vosdroits/F33815?lang=en) property of the protected person.

Management Account Verification

Each year, the guardian must provide, in particular to the substitute tutor, a copy of the management account and supporting documents. The substitute tutor, if appointed, checks the management account before transmitting it with his observations to the chief clerk. The judge may decide that the audit and approval of the accounts assigned to the chief clerk shall be carried out by the substitute tutor.

Articulation with the family council

If the family council exists, the latter appoints the substitute tutor. The substitute tutor is a member of the family council. If the guardian is a parent or ally of the minor in his/her father's family, the subrogate guardian is chosen, if possible, from his/her mother's family (and vice versa).

Once appointed, the subrogate tutor shall attest to the judge that the tutor is carrying out his duties properly. When replacing the guardian, the substitute tutor may not vote in the family council. The family council shall decide whether the guardian shall be replaced by the substitute guardian. If a decision involves the guardian, the family council asks the substitute guardian to replace it.

Obligation to provide information

The substitute tutor has the obligation to inform the judge without delay if he finds that the tutor has committed errors in the performance of his mission.

The substitute tutor must be informed and consulted by the tutor first disposition act performed by him.

Liability

The responsibility of the substitute tutor may be taken:

- if the substitute tutor finds that the tutor has committed errors in the performance of his duties and does not inform the judge without delay,
- or in the event of termination of the guardian's duties and that he does not provide for his replacement.

End of mission

The mission of the substitute tutor shall cease at the same time as that of the tutor.

The mission of the guardian shall end on the day of the death of the protected person.

The mission ends:

- at any time if the judge decides that it is no longer necessary, at the request of the adult or any person entitled to request guardianship, the judge shall decide after medical opinion,
- on expiry of the fixed period, in the absence of renewal,
- if a curatorship order is made in place of guardianship.

Statute and miscellaneous references

- Civil Code: Articles 496 to 499 [↗](http://legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006136237&cidTexte=LEGITEXT000006070721) (<http://legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006136237&cidTexte=LEGITEXT000006070721>)
Trusteeship management
- Civil Code: Rule 454 [↗](http://legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006181867&cidTexte=LEGITEXT000006070721) (<http://legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006181867&cidTexte=LEGITEXT000006070721>)
Subroge curator and subrogate tutor