

Dad, mom,
do you know how to
protect my assets?



**Le Curateur public
du Québec**

À la rencontre de la personne



Does your minor child possess assets?

Has your minor child inherited a large sum of money, been awarded compensation, collected life insurance benefits or earned wages?

As a parent, can I use this money for the family? Can I use it to pay for my minor child's expenses?

How do I balance my parental obligations, my obligations as legal tutor and the protection of my child's assets?

The Curateur public du Québec can help you.

Your obligations as a parent

Parents must care for their minor child, and see to her/his education and maintenance. When they administer money or other assets in their child's name, they must not use these funds for other family members such as brothers and sisters and they must avoid situations where there may be a conflict of interest.

The fact that your child has assets or income of her/his own does not release you from your duty to support her/him with your own money. Parents have the obligation of support and maintenance for their children; some of these obligations end when the children reach full age (18) or are emancipated, while others remain for the rest of their lives.

Obligation of support

Parents, both father and mother, are required to provide for the basic needs of their children: this is known as the obligation of support. Examples of this obligation include providing food, clothing, housing and personal care.

The obligation of support does not end when your child reaches full age and it is mutual. In exceptional cases, the minor child may be asked to contribute to your basic needs, but it is up to the court to decide and to determine the appropriate amount that they will have to pay.

Obligation of maintenance

You also have the obligation of maintenance for your child, which means you must provide her/him with the appropriate health care, recreational activities and an adequate education. This obligation is contingent on your standard of living and not on your child's assets. Contrary to the obligation of support, it is not mutual. This obligation ends when your child reaches full age.

In all cases of tutorship, tutors must respect the obligations of an administrator of the property of others, act with prudence and honesty and make investments presumed sound.



Your obligation as a legal tutor

In Québec, under the Civil Code, the parents of a minor child are the child's legal tutors and as a result have certain obligations, including the administration of the child's assets.

Administration of assets

You are acting as the administrator of the assets of your minor child (inheritance, life insurance benefit, allowance received or any other tangible assets). This means you must ensure that your child's assets are preserved so that they can be remitted to her/him when she/he reaches majority. At that point, you must account for your administration of the assets. It is therefore very important that you administer your assets and those of your child separately.

Remittance of assets

The legal tutorship ends when the child turns 18. In the rendering of account on your tutorship you must be able to demonstrate that any expenditures made with the child's money contributed to the child's welfare and were made judiciously or, when necessary, with the authorization of the tutorship council. It is important to keep supporting documentation for the expenditures, such as receipts and invoices, since all tutors are required to prepare a final account at the end of the tutorship, regardless of the amount they managed on behalf of minors.

Are there circumstances in which the father or mother is allowed to use the patrimony of their child?

You are authorized to withdraw from the assets you are administering any sums required to fulfill the obligations of the tutorship, for example professional fees and costs related to the constitution of the tutorship council.

You may also use funds to preserve your child's assets, for example, insurance on the building owned by your child.

Even if under normal circumstances, you are required to pay all the costs to cover your child's needs, under certain circumstances, you may use the child's money. For instance, if your child receives regular income replacement benefits, you may use some of the money to provide for their needs.

Inventory of assets

Legal tutors administering assets worth \$25,000 or more are obliged to make an inventory of the minor's assets and remit a copy to the tutorship council and the Curateur public. When assets are valued at less than \$25,000, it is still a good idea to prepare an inventory as it will be useful in justifying the final remittance.

Dative tutor

A tutor who is not one of the child's parents is called a dative tutor. Dative tutorships are generally exercised by a member of the family or a friend appointed by the father or mother or the court. Since dative tutors theoretically have no obligation to support the minor, they can use some of the child's patrimony to ensure that the child is properly cared for.

Dative tutors basically have the same rights but more obligations than legal tutors, since they must prepare an inventory of the child's assets, **regardless of the amount they are administering**, submit an annual report and constitute a tutorship council.

The suppletive tutor

When the parent (father or mother) of a minor child wishes to share or delegate parental authority and legal tutorship with another person, they can ask the court to authorize the appointment of a suppletive tutor to their child. This may be the case if they are unable to exercise the full responsibilities of tutor and the person having parental authority, or if they wish to share parental responsibilities with a new spouse, without going through the adoption process.

Like the dative tutor, the suppletive tutor has no obligation of support toward the minor child. Moreover, if the child's patrimony exceeds \$25,000, the suppletive tutor's obligations are the same as those of the legal tutor.

The role of the tutorship council

A tutorship council is usually formed by three members chosen from the child's family and appointed by the court.

However, mother, father or both of them can request that the court appoint only one person to assume this task.

In certain situations, the tutorship council will be called on to authorize expenses, depending on the financial situation of each parent and the minor's needs. Contact the Curateur public if you want more information about this.

A tutorship council is mandatory in cases of legal or suppletive tutorship when the total assets to be administered exceed \$25,000, and in all cases of dative tutorship.

The tutorship council determines the security the tutor must provide in order to guarantee proper execution of his or her duties and protect the minor's assets. There are generally three acceptable types of security: a mortgage security, an insurance or suretyship contract, or a hold funds.



And the Curateur public du Québec?

The Curateur public informs parents and families of their obligations as a tutor or a tutorship council and, on request, assists them in fulfilling their responsibility.

In collaboration with the tutorship council, they supervise the tutor's administration, by reviewing the annual and final accounts.

The Curateur public can intervene when situations of abuse are brought to its attention.

The minor's income

Salary

Minors can manage their salary and any allowances they receive for their current needs. They use these sums for personal expenses.

Indemnities

These are the sums children are entitled to receive, for example, in the event of a car accident or work injury involving one of their parents or themselves. It may be paid in the form of a single-payment indemnity or as periodic instalments determined by a contract or law.

Some forms of indemnity that are paid after the death of a parent are made to help the surviving parent meet his or her child support obligation. In other cases, indemnities must be preserved and hand over to the minor when he or she turns 18. Contact the Curateur public for further information or assistance with these issues.

Trusts

A third party, such as a liquidator of a succession or a trustee, may be given the responsibility of administering sums that will later be remitted to the child, for example, when she/he reaches the age of 18, 21 or 25. If the will or trust deed stipulates that the third party must assume some of the minor's expenses, for instance, education fees, it is the tutor's duty to ensure that the minor actually benefits in this way.

Even though you do not administer this money, your role as a tutor is to ensure that the third party administers it correctly and in the interest of the minor.

If you have questions or are looking for the address of the office nearest you:

Call us at **514 873-4074** or **1 800 363-9020** Monday to Friday, 8:30 a.m. to 4:30 p.m. (Wednesdays open at 10:00 a.m.) or visit our website at **www.curateur.gouv.qc.ca**.

Write to us

◆ E-mail

Contact us page of our website.

◆ Regular mail

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The law takes precedence over
the content of this document.