CURATEUR PUBLIC
DU QUÉBEC

Managing the property of a minor child

Guide for the legal tutor

and the tutorship council

Awareness | Support | Action

Votre gouvernement

Québec

Produced by Curateur public du Québec

A version of this document can be accessed online, at
Québec.ca/legal-tutor-guide.

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Curateur public Québec

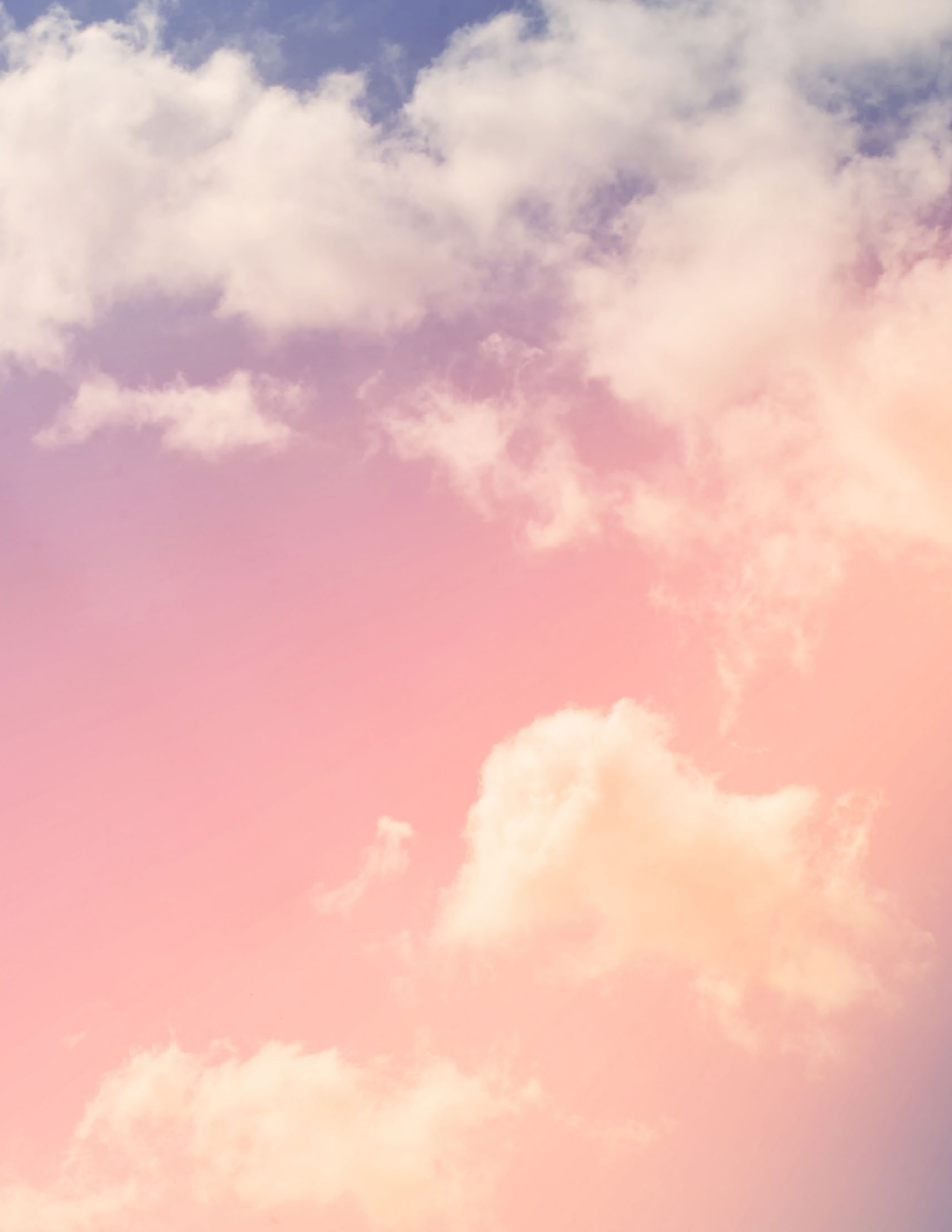


Table of contents

Introduction of the supervision of the legal tutorship to the property of a minor

Transmission to the Curateur public of a declaration of the remittance of property in favour of a minor (donor, liquidator of a succession, insurer)

↓

Does the value of the child's property exceed $40,000?

↓

Yes

↓

Opening of a supervision file by the Curateur public

↓

Announcement of the opening of a supervision file for the tutorship to the legal tutors (parents)

↓

Rules regarding the supervision of his management that the legal tutor must comply with:

- Immediately create a tutorship council (see page 16).
- Within 60 days of the onset of the supervision of the tutorship, prepare an inventory of the property to be managed and submit it to the tutorship council and the Curateur public (see page 17).
- Provide security, i.e., a guarantee to protect the child's patrimony (see page 19).
- Manage your patrimony separately from that of the child (you cannot deposit the minor child's money in your own bank account) (see page 21).
- Ensure financial follow-up and prepare an annual management report to be submitted to the tutorship council, the Curateur public and to the child if 14 years of age or older (see page 27).
- Prepare a final administration report at the end of the supervision and provide it to the child who is now of full age or emancipated, to the tutorship council, to the new tutor (if such is the case) and to the Curateur public. (see page 29).

Background

When a child (under the age of 18) receives property valued at over $40,000 – from an inheritance, life insurance policy or other source – a supervision of the management of this property by the child's legal tutors (parents) is initiated. This measure is provided for in the Civil Code of Québec to ensure the preservation of the child's patrimony, namely all of the property he possesses (money, buildings, vehicles, land, etc.), so that it can be handed over to him when he turns 18. The law notably foresees the supervision of this tutorship by a tutorship council.

You must manage the new patrimony of your child in the quality of a legal tutor?

You must supervise the management of this patrimony, as a member or the secretary of the tutorship council?

Then this guide is for you!

It provides details of your new responsibilities and how to assume these, and will also help you better understand the responsibilities of other persons involved in a tutorship. Moreover, this guide describes all of the steps to follow and rules to comply with in order to ensure the management of this patrimony. You will also find information on how to respond to various difficult situations.

While reading this guide, you will encounter a number of symbols. These represent the following:

		
TUTOR	TUTORSHIP COUNCIL	TUTORSHIP COUNCIL SECRETARY
The section is destined for the tutor.	The section is destined for the tutorship council.	The section is destined for the tutorship council secretary.

Questions? Communicate with the person responsible for the child's file at the Curateur public or dial 1 844 LECURATEUR (532-8728).

1. Persons involved in a tutorship

A tutorship to the property of a child brings together a number of different parties, including legal tutors, the tutorship council, the tutorship council secretary, the child himself and the Curateur public. Each of them has different responsibilities, but they all work to ensure the proper management of the child's patrimony and the protection of his interests.

1.1 Legal tutors (parents)

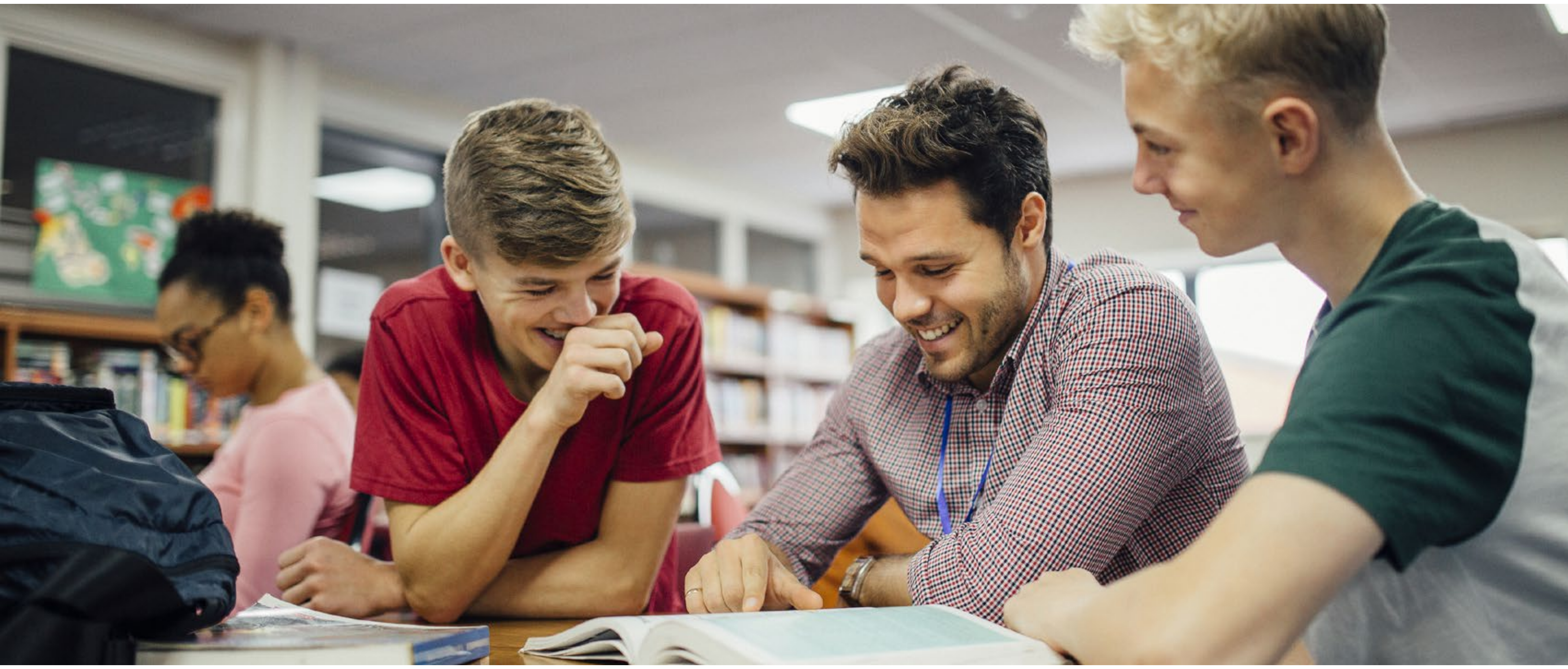
TUTOR

As parents, you are automatically the legal tutors of your child until he is 18 years of age. You are, by extension, responsible for his well-being, the management of his patrimony and the exercise of his civil rights. Your parental responsibility includes **parental authority and obligation to provide support**, and your responsibility as legal tutors includes **the management of your child's patrimony** and **the exercise of his rights.**

Parental authority consists of a group of rights and obligations that you have towards your child. This parental authority allows you to make decisions critical to his well-being. You are therefore responsible for meeting the child's basic needs, by notably seeing to his health and safety, essential items such as food and clothing, lodging and education.

> Regardless of conjugal status (married or single, separated or divorced), parents exercise their parental authority together. If one parent dies, the other parent shall have sole parental authority.

Even in a situation where your child has a lot of money, you must continue to pay for and provide him what he needs: food, clothing, housing, education/studies, personal care, transportation, leisure activities, vacations, orthodontic services, etc. This is the **obligation to provide support** of parents.



Understanding the responsibilities of legal tutors with regard to their child's patrimony

As a legal tutor, you must preserve the value of your child's patrimony so as to hand it over to him when he turns 18 or is emancipated (see page 14). To that end, you have the power of **simple administration.** Under a simple administration, you must obtain an authorization from the tutorship council or the court to perform certain acts (see page 12).

There are a number of acts that a tutor may perform without authorization, by virtue of a simple administration. These include:

- Having repairs carried out to real property (home, apartment, etc.) which are deemed necessary to preserve the property's value.
- Obtaining and paying for insurance to protect the child's property.
- Accepting a donation that does not comprise any specific financial charges (i.e., a donation carrying obligations).
- Paying income tax fees, property taxes, etc.

Furthermore, the supervision of the tutorship legally requires that you meet specific obligations. These obligations are further explained in the section ***Workings of a legal tutorship to the property of a minor child*** (see pages 16 to 31).

Resource in the event of a disagreement among the legal tutors

Within the context of the supervision of a tutorship, various situations could result in tutors being in disagreement. One such example would be a disagreement regarding the amounts required to pay the tutorship expenses (see page 24).

When such disagreements occur, tutors must turn to the tutorship council. The tutorship council will take steps to promote an agreement between the parties. This helps avoid legal measures, the costs of which would be deducted from the patrimony of the child and potentially decrease its value. Should a disagreement be difficult to resolve, the tutorship council may reach out to the Curateur public representative responsible for the child's file. Depending on the situation, the persons involved (or any other person with a special interest) may ask the court to settle the matter.

1.2 Tutorship council

The role of the tutorship council consists of supervising the tutor's management. Its duties with regard to a tutorship to the property are important, for it ensures that the tutor is acting in the interest of the child and properly managing the latter's patrimony.

Understanding the responsibilities of a tutorship council

As a tutorship council, you must:

- ensure that the tutor draws up the inventory as required;
- verify the inventory, annual reports and final administration report prepared by the tutor;
- establish the security (the guarantee that the tutor must provide to protect the patrimony of the child) and ensure that it remains compliant (see page 20);
- authorize the tutor to perform certain acts and provide notices to the court regarding certain acts or decisions;
- ask the court to appoint **an ad hoc tutor** to ensure that the interests of the child are protected. The ad hoc tutor represents the child when he and his tutor are faced with a situation that could lead to a legal dispute (note that the ad hoc tutor's role is no longer necessary once the situation in question is resolved);
- ask that the tutor be replaced if he can no longer fulfil his duties or fails to meet his obligations;
- promote the settlement of disputes between tutors;
- handle any reports received, as the case may be (see page 38);
- retain all documents concerning the tutorship.

Examples of authorizations granted to the tutor and advice and information provided to the court

To perform certain specific acts, the tutor will need your prior authorization. In fact, the court will also ask for your advice and any information you may want to share prior to granting the tutor its authorization with regard to other acts or decisions.

- **The tutor must obtain your authorization or advice with regard to:**
  - the amounts required to pay certain expenses associated with the tutorship (attorney fees, bank fees, etc.), specifically when tutors are in disagreement;
  - the sale of property or loans contracted when the value is $40,000 or less;
  - renouncing to an inheritance where there is a deficit and of which the child is the beneficiary (see page 24);
  - accepting a donation with possible financial charges on behalf of the child (in other words, a donation carrying obligations);
  - the simple emancipation of the child (as of the age of 16) (see page 14).

- **The court will ask for your opinion as regards:**
  - the amounts of money, earned by working, which the child can continue to manage;
  - the appointment of an **ad hoc tutor** (see page 11);
  - the emancipation of the child;
  - the sale of property or loans contracted when the value exceeds $40,000;
  - remuneration of the tutor, when necessary.

The legal tutor or the tutorship council member essentially perform their duties without any compensation, i.e., for free. However, when management of the child's patrimony proves complicated and takes up a significant amount of the tutor's time, the latter can receive a remuneration as established by the court, based on the tutorship council's recommendation.

The tutorship council secretary may also be remunerated.

In light of the significance of your role, the tutor should decidedly communicate with you should he have any questions regarding the use of the child's patrimony or prior to making a decision concerning specific property.

1.3 Tutorship council secretary

TUTORSHIP COUNCIL SECRETARY

The secretary of a tutorship council may or may not be a member of the council. If the secretary is a council member, he will have the same decision-making power as the other members. A secretary who is not a member of the council has no decision-making power whatsoever.

Understanding the responsibilities of a tutorship council secretary

As secretary, your role involves drafting the agenda and the minutes of tutorship council meetings.

Also, in your capacity as a secretary, you will receive various documents for the tutorship council, some of them sent by the Curateur public or the tutor. You must transmit this information to the tutorship council members. Always remember that the tutorship council is obligated to retain all of the documents concerning the tutorship to the property of the minor.

Should the tutorship council be replaced, you must hand over the tutorship documents you have in your possession to the new tutorship council.

1.4 Child

The child plays a role in his tutorship, for the law progressively grants him various rights, among them the management of some of his property.

Understanding the rights of the child with regard to the management of his patrimony

As soon as the child turns 14, he must be notified of the existence of his patrimony and the manner in which it is being managed. In this regard, his legal tutor must provide him a copy of the annual report he has prepared and submitted to the tutorship council and the Curateur public. The tutor must also ensure that the child understands the content of the report. This prepares him to receive his patrimony and manage it, once he is 18 years of age or emancipated.

> Under the law, a child is considered of full age once he turns 14 years old, and this in terms of work/employment or acts associated with an art or a profession.
>
> Should the minor have significant income or spend his money foolishly, the tutor can ask the court to determine amounts from his patrimony that the child will be entitled to spend.

Emancipation of the minor child

Emancipation provides a minor child with more independence, while also enabling him to perform certain acts that were previously prohibited. Emancipation can be partial (**simple emancipation**) or complete (**full emancipation**).

Simple emancipation

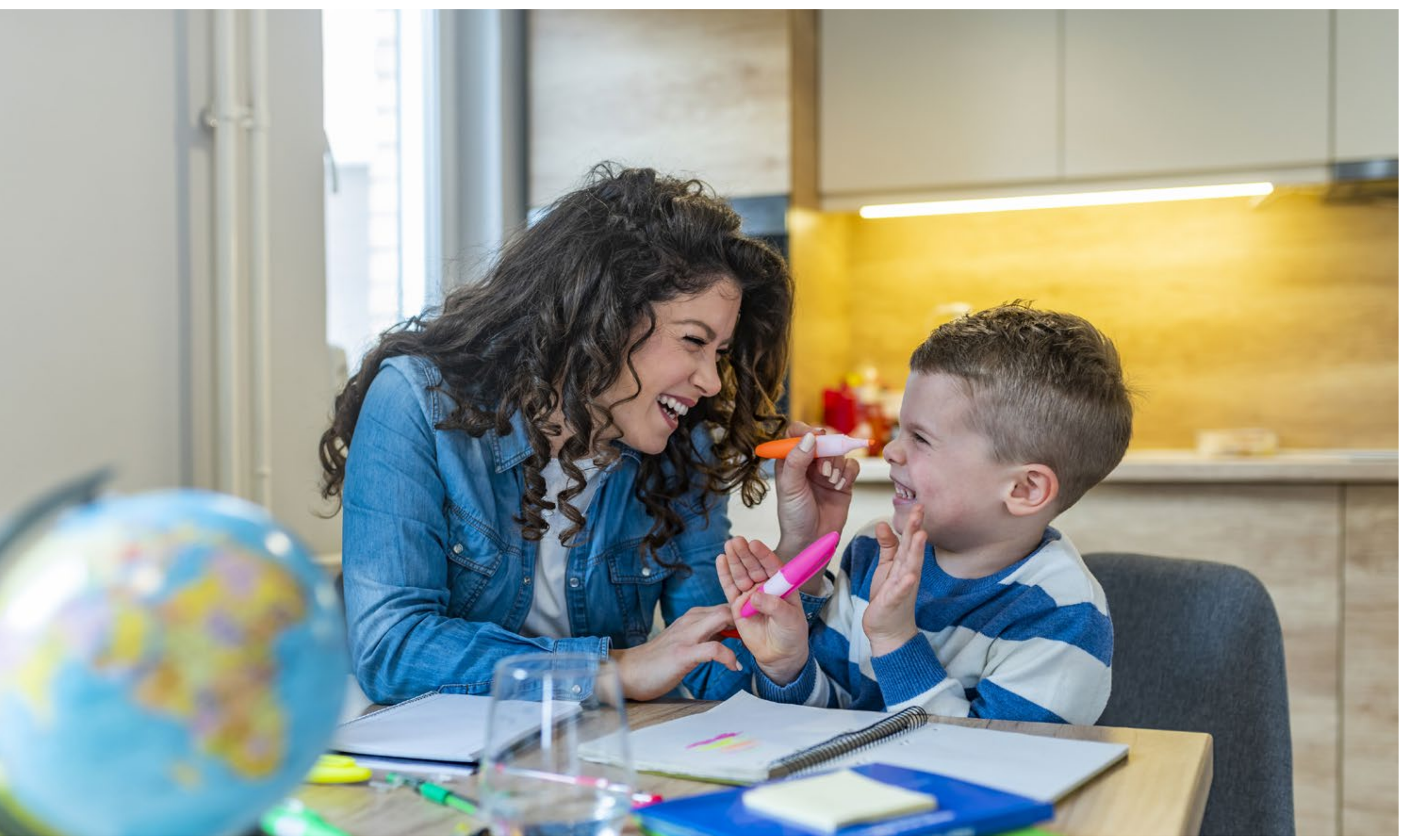
Simple emancipation allows a minor child to perform certain acts as though he were of full age. It puts an end to the notion of parental authority (see page 9). The child's tutor, however, must help him with all acts that go beyond **the simple administration** (see page 10).

A child can receive a simple emancipation by asking his tutor or submitting a request to the court. If the child reaches out to his tutor, the latter will, after having obtained the tutorship council's authorization, complete the ***Declaration of Simple Emancipation form*** and submit it to the Curateur public. This form is available at Québec.ca/minor-property-tutorship-forms.

Full emancipation

Full emancipation is when a child can exercise his civil rights as though he were an adult. At 16, for example, a child can get married, albeit with the authorization of his tutor. Once married, he then becomes emancipated and the tutorship ends.

Whether it be a simple or a full emancipation, there are certain acts or rights (reserved solely to adults) to which the child will not have access to until he is 18 years old; these include purchasing lottery tickets, cigarettes or alcohol, going into a bar or a casino, and voting.



1.5 Curateur public du Québec

The Curateur public ensures the protection of the patrimony of minors.

Understanding the responsibilities of the Curateur public

As regards the tutorship to the property of minors, the Curateur public:

- provides the tutor and tutorship council with help and support as they fulfil their obligations;
- supervises the management of the child's patrimony by the tutor, in conjunction with the tutorship council;
- checks the inventory prepared by the tutor;
- establishes the required security if this has not been done by the tutorship council during the six-month period following the onset of the supervision of the tutorship or if it is taking on the role of tutorship council;
- takes on the role of tutor to the property of the child if appointed by the court due to there being no relatives or persons with a special interest able to accept this responsibility;
- Keeps a **register of tutorships to minors in its Public register of representation measures**;
- uses its investigative authority during the verification of the annual administration report or when it considers such a measure necessary;
- handles reports regarding the management of the child's patrimony.

The register of tutorships to minors

At the onset of the supervision of the legal tutor's management, the Curateur public adds information regarding the child and his legal tutors to the register of tutorships to minors. This register, which is regularly updated, comprises:

- the case/file number assigned to each legal tutorship by the Curateur public;
- the date of the judgment establishing the onset of the supervision;
- the first name, last name and date of birth of the child;
- the first and last names of all legal tutors.

When the child turns 18, is fully emancipated or dies, his name is removed from the register.

The register can be accessed online, at **Québec.ca/register-representation-measures** or by calling 1 844 LECURATEUR (532-8728). The name and date of birth of the child will need to be provided.

2. Workings of a legal tutorship to the property of a minor child

To ensure a proper management of the child's patrimony as a tutor or to ensure its supervision as a tutorship council, you must act in compliance with your obligations, as determined by the law. Also, the following steps are mandatory and must be executed.

> **Attention**
> Should you invest all of your child's money in the Security Investment, you could find yourself spared from having to comply with a number of these obligations. See page 19 for further details.

TUTOR

2.1 Creating the tutorship council

A tutorship council must absolutely be formed when the value of a child's patrimony exceeds $40,000; this is notably required in your case.

> **Attention**
> The establishment of a tutorship council can take a certain amount of time, especially for the steps involving the court. We recommend that you begin the process as soon as possible.

Tutorship council comprised of three persons

The tutorship council is generally composed of:

- three members chosen from among the relatives or persons with a special interest of the child's two parents;
- a secretary, who may or may not also be a member of the council; and
- one or two replacement members, lest a member need to step down from his council position.

The members comprising it are designated by a **meeting of relatives of the minor and persons connected to him by marriage or a civil union, and his friends,** and are appointed by the court.

The meeting of relatives of the minor and persons connected to him by marriage or a civil union, and his friends

The meeting of relatives of the minor and persons connected to him by marriage or a civil union, and his friends gathers members of the immediate family and persons with a special interest or loved ones of the child. The persons who attend this assembly are convened by a special court clerk or a notary, at your request as a tutor or subsequent to a request from any other interested person. The invitation is first sent to the child's grandparents, then to his brothers and sisters of full age, and then to you, his parents. An invitation can then be sent to members of the extended family who have regular contacts with the child. At least five people must be convened to appear. If the special court clerk or the notary is unable to convene five persons, they may convene other members of the extended family (uncles, aunts, cousins who are persons of full age). This being said, the assembly will be held regardless of the number of participants present.

It bears noting, however, that no tutor can be a member of the tutorship council, nor take on the role of council secretary. Moreover, the law does not allow for a council formed of only two members, as this could prove an obstacle in the event of a disagreement.

Tutorship council comprised of a single person

If justified by the circumstances or requested by the parents, the tutorship council can consist of a single person; this person will then also take on the role of secretary. To form a tutorship council comprised of a single person, you must file a request with the court.

Should no one be available to serve as a member of the tutorship council, the Curateur public may be named to the role, i.e., as the tutorship council.

Whether the goal is to form a tutorship council comprised of three persons or a single person, you can take the necessary steps on your own or ask an attorney or notary to assist you. The expenses incurred to create the tutorship council (e.g., notary or attorney fees as well as court costs) can be deducted from the child's patrimony.

2.2 Preparing the inventory

TUTOR

Preparing the inventory involves preparing a **detailed list of all the assets and debts** of the child as of the onset of the supervision of the tutorship. This list only includes items valued at $100 or more. Debts can include a mortgage on a building the child has received as part of an inheritance.

The inventory must be prepared within 60 days of the onset of the supervision of the tutorship.

The inventory enables you, in your role of tutor, to have a fair idea of the type and value of the child's patrimony whose management, under supervision, you were entrusted with. It will also be of help when establishing the amount of the **security** (see page 20) and when preparing the **annual management report** (see pag 28). The inventory can be either notarized or signed in front of two witnesses.

If you are a tutor to more than one child with a patrimony valued at over $40,000, you must prepare an inventory for each one of them.

Inventory signed in front of two witnesses (Inventory by Private Writing)

This inventory is prepared by you, the tutor, and signed by two witnesses of full age. By apposing their signature, the witnesses declare that the tutor was in fact the one to have signed off on the inventory. This type of inventory is often used when the patrimony of the child is easy to enumerate in a list format.

In preparing this inventory, you must:

- gather all of the necessary documents (see the Inventory Checklist at **Québec.ca/minor-property-tutorship-tools**);
- fill out the inventory form found at **Québec.ca/minor-property-tutorship-forms** (it is also included in the first communication package sent to you by the Curateur public);
- sign and date the form;
- ask two other people to sign and date the form as well.

Notarized inventory

The notarized inventory is prepared by a notary. When the patrimony of the child consists of numerous and diverse items (investments in several financial institutions, immovables or shares of companies, for example), you may prefer calling on the services of a notary. The fees in such a case are deducted from the patrimony of the child.

TUTOR

Providing incomplete information

The inventory must be prepared within the timeframe of 60 days following the onset of the supervision of the tutorship. Whenever you become aware of new information pertaining to the child's patrimony, you must make all necessary corrections to the inventory. Do not hesitate to communicate with the person at the Curateur public responsible for the file in order to obtain more specific details.

You can also check the inventory form instruction guide for information on the steps to follow. This document is available at **Québec.ca/minor-property-tutorship-forms**.

When the child receives an amount in excess of $40,000, verify that the insurer or liquidator has sent the relevant information to the Curateur public.

Submitting the inventory to the proper person

Once the inventory has been drawn up, you must provide a copy to:

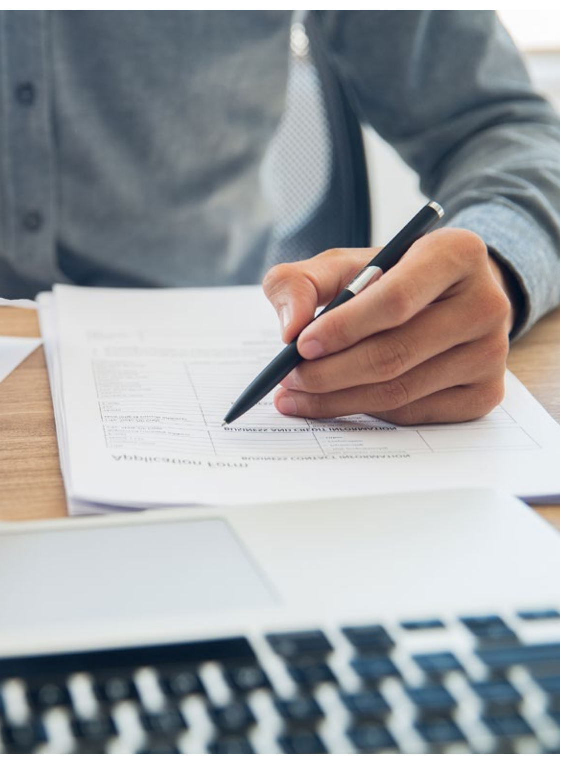
- the tutorship council;
- the Curateur public;
- the child, if 14 years of age or more (you will need to explain the content of the inventory to him).

When submitting the documents to the Curateur public, make sure to indicate the name of the child and his file number.

TUTORSHIP COUNCIL

Verifying the inventory

The Curateur public and the tutorship council are tasked with verifying the inventory drawn up by the tutor.



As a tutorship council, you must ensure that:

- the inventory was prepared by the tutor within 60 days of the onset of the supervision;
- the inventory lists all of the property and debts of the child;
- the information provided by the tutor is exact and included in the proper sections;
- the tutor has provided the relevant documents (check the Inventory Checklist at **Québec.ca/minor-property-tutorship-tools**);
- the tutor has signed and dated the inventory;
- the inventory is in fact signed and dated by two witnesses (in the case of an inventory that is not notarized).

Important note for the tutor
If the tutorship council is not yet formed at the time the inventory is drawn up, send a copy of the inventory you have prepared to the Curateur public, making sure to keep the original document. As soon as the tutorship council is formed, you will need to provide it a copy of the inventory.

2.3 Providing security

Security is a guarantee that the tutor must provide when the value of the child's patrimony exceeds $40,000.

The security is designed to protect the patrimony and to ensure that it is properly administered by the tutor.

The type of security, the amount and the time granted to furnish it are determined by the tutorship council. The tutorship council must provide this security within 6 months of the onset of the supervision of the tutorship, failing which the Curateur public will do so.

Understanding the various types of security

The Curateur public recognizes four types of security: holding of funds, Security Investment, security of mortgage and contract of surety or other type of insurance.

Holding of funds

The holding of funds is a written commitment prepared by the financial institution where the child's accounts are held. This is a measure whereby all or a part of the funds are blocked until the end of the tutorship. Once the hold is in effect, the legal tutor cannot unblock the funds without the written authorization of the tutorship council.

Security Investment

The Security Investment is a type of hold on funds developed by the Curateur public in partnership with Épargne Placements Québec. It allows a tutor who deposits all of a child's money in this investment, with no intention of withdrawing any amounts, to benefit from a simpler process for the **rendering** of accounts. Such a tutor could potentially account for his management of the child's patrimony in a manner other than by the preparation of annual administration reports. Furthermore, if this type of security is selected at the very onset of the tutorship, the tutor may not be required to form a tutorship council. Once the child is of full age or emancipated, the accounts will be placed in the child's name, without the tutor having to take any steps in this regard.

> Should you wish to withdraw some or all of the funds deposited in a Security Investment, you must form a tutorship council. You will then need to prepare annual administration reports as well as a final administration report, and a confirmation of the security will be required each year.

For more information, go to Épargne Placements Québec's Web site at **https://epq.gouv.qc.ca/en/products-offered/the-security-investment**.

Security of mortgage

A security of mortgage is a contract that enables the tutor to offer a building which he owns as a guarantee. Should the tutor subsequently spend the child's money for an unwarranted reason and be unable to reimburse the amount in question, his building could be sold in order to recover the amount owing.

Contact your financial institution for further information on how to proceed.

Contract of surety or other type of insurance

The contract of surety is a liability insurance that the tutor takes out to guarantee his management of the child's patrimony. This type of security offers a reimbursement to the child should there be exploitation or other abusive behaviour from a tutor. Following this scenario, the latter must reimburse the insurance company, which will take the necessary measures in this regard.

For more information regarding this type of security, we recommend that you have an insurance company or broker assist you.

Establishing the amount of the security

As a tutorship council, you must establish the amount of the security by taking into account various elements, such as the nature of the child's patrimony, the expenses associated with the preservation of the patrimony, etc.

TUTORSHIP COUNCIL

Establishing the amount of the holding of funds

The Curateur public, as part of its supervision of the tutorship, will recommend a holding of funds equal to 100% of the patrimony to be administered.

If an action impacting the child's patrimony is planned, contact the person responsible for his file at the Curateur public, if you have not already done so.

To document your decision and let it be known to the tutor and the Curateur public, you must complete the form entitled ***Attestation of a Tutorship Council Decision Regarding the Security Required from a Tutor.*** This form is available at Québec.ca/minor-property-tutorship-forms.

TUTOR

Obtaining the holding of funds

When the tutorship council apprises you of its decision, you must, in your role as a tutor:

- Contact the financial institution or financial advisor;
- Request a holding of funds for an amount equal to or greater than that decided by the tutorship council;
- Fill out the form entitled ***Request to a financial institution regarding the holding of funds;***
- Submit the completed ***Request to a financial institution regarding the holding of funds*** form and the template ***Confirmation of the holding of funds*** to the financial institution.

These documents are available at Québec.ca/minor-property-tutorship-forms.

The financial institution will then take the necessary steps to freeze the funds and investments indicated in the request for the holding of funds. It will subsequently reproduce the contents of the ***Confirmation of the holding of funds*** template onto its own letterhead and fill it out. It will then hand over the original document to the tutorship council and provide both the Curateur public and you, as the tutor, with a copy.

For all other types of security, you can reach out to the Curateur public for further information.

Maintaining the security

As a tutor, you are also responsible for maintaining the security. You must submit a written confirmation of its validity at the frequency established; for example, once a year for a contract of surety. This confirmation must be sent to the tutorship council and the Curateur public along with the **annual management report** (see page 27). You must immediately notify the tutorship council and the Curateur public of any changes made to the security. One such change would be a switch to another financial institution.

> Providing **security** is mandatory; a failure to do so could be considered a violation of one of your obligations. This could lead the tutorship council to take steps in that regard (see page 36).

2.4 Managing the child's patrimony

TUTOR

As part of the supervision of the tutorship, you must take care to properly manage the patrimony of the child and protect the latter's interests. You must at all times act with prudence, diligence, honesty and loyalty. In other words, your actions must be transparent and taken in good faith. The following ways of proceeding should be helpful.

Establishing a distinct patrimony

The patrimony of your child does not belong to you. This is why his bank accounts and his investments must be registered in his name or in your name, followed by the notation "as the tutor" or "in the quality of the tutor", from wherein comes the expression "***ex officio***".

If the accounts are registered in the child's name, you must specify that you are administering them solely in your capacity as a tutor. By acting in this manner, you are separating the management of his patrimony from that of your own.

Depending on the terms and conditions of the financial institution you select, all financial transactions in the child's bank accounts and investments will be signed as follows:

> *The expression "**ex officio**" is a formulation used after a person's name to indicate that he is not personally involved but rather, involved solely due to the role he holds.*

- "(Name of the tutor), acting as the tutor to his minor child (name of your child)", for example:

  Pierre Toutlemonde

  Pierre Toutlemonde, acting as the tutor to his minor child Jacob Toutlemonde

- "(Name of your child), by (your name), acting as the tutor", for example:

  Pierre Toutlemonde

  Jacob Toutlemonde, by Pierre Toutlemonde, acting as the tutor to his child

Note that should you declare bankruptcy while a tutor, the patrimony of your child cannot be used to pay your creditors. You must repay any related amounts on your own, and could be subject to legal action should you use your child's money for such a purpose.

Identifying the sources of income of the child

In addition to having separate bank accounts, you must also identify the sources of income of the child. There can be a number of such sources (various indemnities or annuities, interest income from investments, rental income [from a building], gifts, inheritances, etc.). To determine whether the child's salary (in the event that he has a job) should be included in the patrimony you manage, you can ask the person responsible for the file at the Curateur public for advice.

In fact, you must ensure that the child receives all of the indemnities or benefits (public or other) to which he is entitled, depending on his situation. If this is not the case, you must take the necessary steps to obtain them.

Primary sources of government financial assistance

Depending on their income, some parents may be eligible for financial assistance with regard to their children. Also, a child may directly receive certain amounts, depending on his situation. The following table outlines some of these allowances and indemnities.

	Assistance categories	Main programs	Responsible departments and bodies/agencies
Allowances paid to parents	**Custody/ guardianship of the child**	Canada Child Tax Benefit	Canada Revenue Agency
		Family Allowance payment	Retraite Québec
		Tax credit for childcare expenses	Revenu Québec Canada Revenue Agency
	Health	Reimbursement of the costs of dental services (certain conditions apply)	Régie de l'assurance maladie du Québec (RAMQ)
		Reimbursement of the costs of optometry services (certain conditions apply)	
	Education/ studies	Canada Education Savings Grant (certain conditions apply)	Human Resources and Social Development Canada
		Canada Learning bond (certain conditions apply)	
	Children with disabilities	Child disability benefit (CDB) – tax credit for children with disabilities	Canada Revenue Agency
		Assistance for children – Supplement for Handicapped Children	Retraite Québec
		Special Needs Allowance (financial assistance for education/studies)	Ministère de l'Éducation du Québec
Indemnities paid to the child	**Orphan's pension**	Survivors' benefits	Retraite Québec
	Highway accident	Indemnity for students Lump-sum compensation for loss of quality of life	Société d'assurance automobile du Québec (SAAQ)

Making investments presumed sound

Investing involves placing a certain amount in a financial vehicle or other, for the purpose of enjoying a capital gain, i.e., growing the amount invested.

Investments presumed sound are investments that carry little risk and which protect the value of the capital from decreasing significantly. By favouring these types of investments, you are acting prudently and are protecting the finances of your child from certain risks with the potential to heavily impact the value of his patrimony. Note that according to the law, personal loans are not considered as investments presumed sound.

Any investments received by the child as a gift or inheritance and which were not presumed sound, for example, can nonetheless be retained until their maturity date. At the maturity date, however, you should replace them with investments presumed sound. Should you make investments that are not provided for by law **while your management is under supervision,** you will be held responsible for any losses, which you will need to make good on.

Contact a financial advisor for more information on investments presumed sound.

Verifying accounts and investments

TUTORSHIP COUNCIL

As a tutorship council, you must ensure that the tutor has:

- opened up distinct accounts for managing the finances of the child;
- registered the child's bank accounts and investments with the notation "as a tutor";
- ensured that all investments made were investments presumed sound.

Selling property or contracting a major loan

TUTOR

As a tutor, you must obtain authorization from the tutorship council to sell an asset, item or property belonging to your child or borrowing money in his name. **If the value of the property or loan concerned exceeds $40,000,** you must obtain authorization from the court, which will ask the tutorship council for its opinion.

Authorization can be granted if the tutorship council or the court are convinced that the sale or loan in question is necessary to ensure the education and care of the child, to pay off his loans or to keep one of his assets in good condition or ensure it retains its value. Examples: renovations, repairs or replacement of a roof or windows, etc. for the purpose of preserving the value of a building that belongs to him.

Renouncing to an inheritance

Your child may at some point inherit property (immovables, shares and bonds, cash, valuable objects, etc.). When the value of the property received is greater than the total debts, you can accept the inheritance in his name. However, should you wish to renounce to the inheritance because the total amount of the debts is greater than the value of the property (this is referred to as an inheritance showing a **deficit**), you must first obtain the tutorship council's authorization. Once this authorization has been given, the renunciation is done by means of a notarized act or a declaration under oath in front of the court. You must also notify Revenu Québec of the decision taken.

If you do not renounce to the inheritance, the child will be responsible for paying the associated debts, up to the value of the property received. For example, if the inheritance received is valued at $30,000 and the debts represent a total of $120,000, he will be required to pay the debts up to a maximum of $30,000.

Contact Revenu Québec for further information regarding the relinquishment or renunciation of an inheritance.

Filing a tax return for the child

You may be required to file a tax return for your child, depending on the value of his patrimony. If so, this return shall be separate from your personal income tax return. You can also turn to a professional for the preparation of his tax return; the fees in such a case are deducted from the patrimony of the child. Contact **Revenu Québec** or the **Canada Revenue Agency** for more information on your obligations regarding tax returns for your child.

Paying the tutorship expenses

The **tutorship expenses,** i.e., the expenses directly linked to the management, protection and preservation of the patrimony of the child, can be deducted from the latter's patrimony. These expenses may include:

- **Expenses related to the role of the tutorship**
  - Fees and expenses incurred to create the tutorship council;
  - Accountant fees for the preparation of annual reports, if applicable;
  - All expenses associated with the representation of the child as regards the exercise of his civil rights (attorney fees, etc.).
- **Expenses related to the preservation or protection of the patrimony**
  - Costs of repairs to real property (an authorization from the tutorship council or the court might be required);
  - Investment and bank fees;
  - Costs of insurance for the property;
  - Taxes, municipal taxes, etc.

2.5 Making use of the child's patrimony

TUTOR

Preserving the value of the child's patrimony is a key element in a tutorship to the property of a minor. Hence, the child's patrimony **MAY NOT** be used to pay the costs of his education, care or leisure activities. Nor may it be used to pay for expenses incurred by other members of the family. These expenses are to be paid by you or them with your or their own money. This arises from your **obligation to provide support** (see page 9).

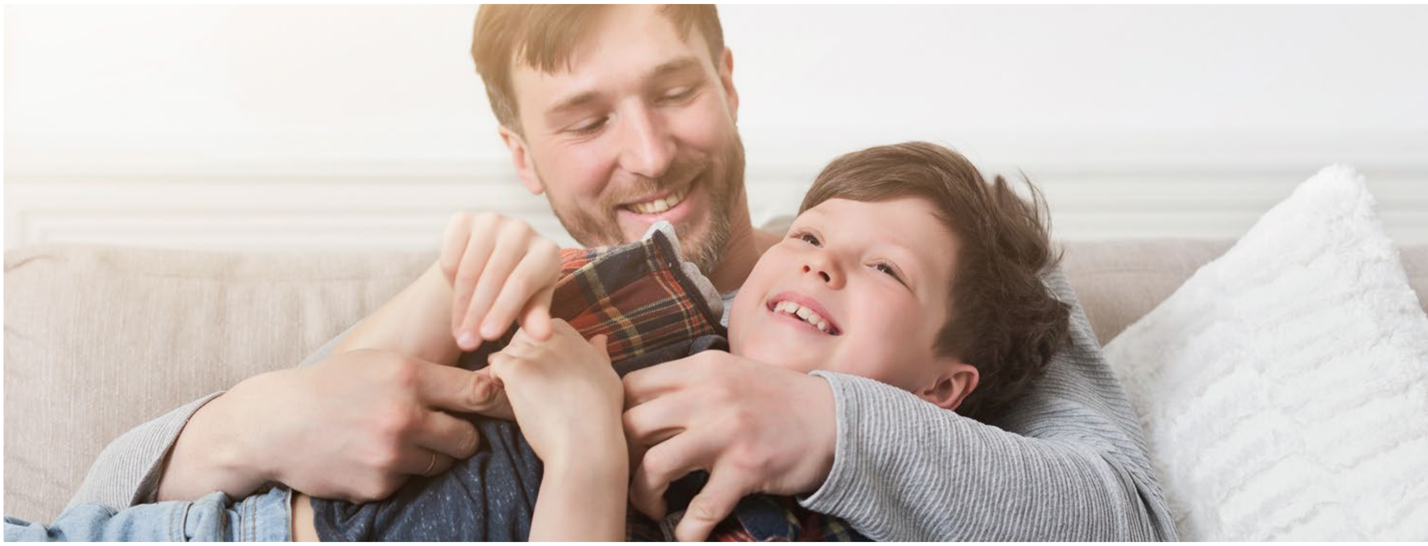
In exceptional circumstances, turning to the child's patrimony could be authorized to meet certain needs of the child in exception circumstances. Any situation of this type should be discussed with the tutorship council. You can also reach out to the person responsible for the child's file at the Curateur public du Québec.

Understanding extraordinary circumstances and learning how to respond

Should you feel obligated to do so, the tutorship council could authorize you to turn to the child's patrimony for expenses of a certain type, such as those regarding:

- **health:** costs of orthodontic services or other special dental services, and the costs of optometry services;
- **education:** school or tuition fees, purchase of school materials, expenses associated with school and extracurricular activities in the academic program (outings, summer camp, etc.);
- **work integration:** postsecondary school or tuition fees, purchase of work tools or equipment, fees for special academic program or transportation costs.

To move forward, you will need to submit a request to the tutorship council, by notably completing and submitting the ***Exceptional Use of the Patrimony of a Minor*** form, which can be accessed at Québec.ca/minor-property-tutorship-forms. You will notably need to explain the planned expense and why it is necessary.



TUTORSHIP COUNCIL

Decision-making criteria

As a tutorship council, the following questions may help you assess requests for making use of a child's patrimony:

- **Is use of the patrimony absolutely essential?**
  Check whether there are other means of paying for the goods or services that the child requires. For example, there may be certain government allowances that cover the specific needs in question. Moreover, some allowances are remitted to parents so that they can help meet their child's needs (see page 22).

- **Is the expense in the interest of the child?**
  The expense in question must serve to meet an essential need of the child (health, education or labour market integration). It must, in other words, support his personal development.

- **Does the income of the parents allow them to pay for the product or service in question, without having to turn to the child's patrimony?**
  Check the financial status of the parents, making sure to focus on the resources remaining once all family-related expenses have been provided for. For extra help, check out the information included in the ***Exceptional Use of the Patrimony of a Minor*** form, which can be accessed at Québec.ca/minor-property-tutorship-forms.

- **Does the expense consider the child's financial capacity, particularly as regards the importance of not putting him at risk (i.e., by significantly reducing the value of his patrimony)?**
  The expense in question cannot significantly reduce the value of the child's patrimony, which must be remitted to him once he is of full age.

This being said, should making use of the child's patrimony represent the only possible solution, it may be authorized by the tutorship council. In such a case, the tutor will need to inform the child aged 14 years or more of the decisions taken that could possibly impact him.

TUTOR

Making use of certain indemnities paid to the child

Some benefits might, for example, be paid to a child to replace the income of a deceased parent. If your child is in such a situation, contact the person responsible for his file at the Curateur public to learn more about the rules governing the use of these indemnities.

2.6 Executing a financial follow-up

TUTOR

It will be important to use an accounting spreadsheet or record if you must turn to the patrimony of your child for expenses related to the tutorship or as an exceptional remedy. The use of such a record makes it easier to track the expenses incurred on behalf of the child as well as the income you receive in his name. This record can be electronic or handwritten. Either way, it should include a section for income and another for expenses. You can include the details of inputs and outputs (transactions) that are indicated on the monthly reports of the child's current bank account. By filling in this information on a regular basis, you will find it much easier to complete the **annual management report** at the end of each year.

The Curateur public offers a financial tracking tool in Excel at
Québec.ca/minor-property-tutorship-tools.

Conserving documents

You must keep all of **the original copies of supporting documents** associated with the management of your child's patrimony. These include bills, receipts, cheque stubs, bank statements and investment account statements from a financial institution. You must submit copies of all of these documents to the **tutorship council secretary.** The secretary will keep these archived until the child is of full age or emancipated.

2.7 Preparing the annual management report

TUTOR

As a tutor, the **annual management report** is an excellent way for you to provide information on your management of the child's patrimony. It also allows you to account for all of the expenses and other actions undertaken on his behalf. It accurately portrays the totality of the child's property (his assets) and his debts (his liabilities), as well as his income and expenses over the course of the year. It also makes it possible to ascertain that you have duly met your obligations and that the interests of the child were well protected.

As indicated by its name, this report must be prepared each year. More specifically, **it must be done within 90 days of the anniversary date of the supervision of the tutorship.**

> **The anniversary date** corresponds to the date on which the supervision of the tutorship began. For example, if the onset of the supervision was on June 1st, you must submit the annual report **by no later than** September 1st of each year thereafter (namely 90 days after).

The Curateur public can, when justified by the circumstances and according to the conditions it determines, authorize the tutor to account for his administration in a manner other than by submitting an annual report. If this applies in your case, the person responsible for your child's file will so advise you.

Completing the Annual Management Report form

A month or so prior to the anniversary date of the supervision of the tutorship, the Curateur public will send you, by mail, the appropriate **Annual Management Report form,** depending on your child's situation.

The first year, the person responsible for the file will call you to offer assistance filling in the first annual administration report. You can ask any questions you may have, in addition to receiving help every step of the way. The person assisting you can also give you a hand with the preparation of your annual administration reports for the following years, if needed.

As of the second year, you will receive either the same form or a different one, depending on the circumstances of your child.

These forms are also available at **Québec.ca/minor-property-tutorship-forms**.

To prepare the annual management report, you can refer to the **previous year's report** (if applicable) as well as the **supporting documents** and **financial information** you recorded throughout the year.

If the process appears complicated, you can always ask an accountant for assistance with the preparation of the annual report. In fact, if the value of the patrimony is $100,000 or more, the Curateur public could ask that a certified accountant audit the annual report. The accountant's fees in such a case are deducted from the patrimony of the child.

Submitting the annual management report to the right person

Once the annual report is prepared and signed, you must send a copy to:

- the tutorship council;
- the Curateur public;
- the child, if he is 14 years old or more.

The first annual report submitted to the Curateur public and the tutorship council must be accompanied by a copy of supporting documents confirming the data in the report regarding property, debts, income and expenses. Supporting documents can include bank statements and investment account statements, bills, property titles, etc.

In subsequent years, only the annual management report must be sent to the Curateur public. The latter, however, could ask you for supporting documents when it is carrying out its verification. As for the tutorship council, you must provide it with copies of supporting documents every year.

Reminder
When you send a document to the Curateur public du Québec, remember to include the name and case/file number of the child in the document itself.

Checking the annual management report

As a tutorship council, you must verify the annual report submitted by the tutor.

TUTORSHIP COUNCIL

To that end, you must ensure that:

- the annual report lists all of the property and debts of the child;
- the information provided in the report is exact and included in the proper sections;
- all of the applicable expenses have been entered correctly;
- the tutor has provided explanations for all of the expenses by providing, among other things, supporting documents.

To help you in this regard, you can refer to the **Annual Management Report Checklist** available at **Québec.ca/minor-property-tutorship-tools.**

Once the annual report has been verified, you can ask the tutor to correct any elements that you feel are inaccurate or incomplete. Once the modifications have been done, the tutor must provide a corrected copy to you and the Curateur public. However, should the tutor refuse to cooperate or if there is a dispute, you can ask the person responsible for the file with the Curateur public for help or advice.

2.8 Preparing the final administration report at the end of the supervision

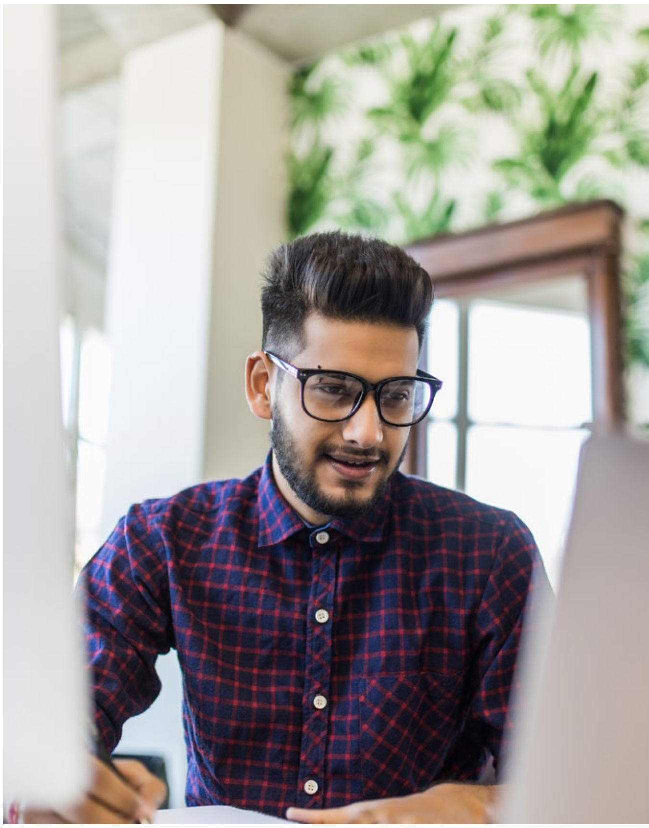
TUTOR

A final administration report is a document that you prepare:

- when the child becomes a person of full age or emancipated;
- if the child dies;
- if you are replaced as the tutor to the property of the child.

This document consists of a report of your management for the period from the date of the last annual management report and the date on which your role ended. It also indicates the status of the patrimony of your child after all debts and other expenses have been settled.

Timeframe
The final administration report must be prepared and submitted within 30 days of the end of the supervision of the tutor's management. For example, if the child turns 18 on April 8, the tutor must submit the final administration report before May 8. The tutorship council is responsible for ensuring that the tutor does so within the stipulated timeframe.



Tips for preparing the final administration report and submitting it to the right person

The Curateur public has created a **form** to help you prepare the final administration report. This document, very similar to the annual management report form, will be sent to you at the end of your management. This document is also available at Québec.ca/minor-property-tutorship-forms.

Once you have completed the form and signed it, you must keep a copy for your records and depending on the situation, send the original either:

- to the child of full age or the emancipated child;
- to the liquidator of the succession in the event of the child's death;
- to the new tutor if you have been replaced (a copy must also be sent to the child if he is 14 years old or more).

You must also send a copy of the final administration report to:

- the Curateur public; and
- the tutorship council secretary.

It could be that a child who has become a person of full age is subject to a tutorship because of an incapacity. This tutorship could be performed by someone other than yourself. If such a situation occurs, you will need to submit the final administration report to the new tutor.

If you feel that the preparation of the final administration report is too complicated of a process, you can entrust it to an accountant or another competent professional. The fees in such a case are deducted from the patrimony of the child.

TUTORSHIP COUNCIL

Checking the final administration report

As the tutorship council, you must check whether:

- the final report prepared by the tutor includes information on all of the child's property and debts;
- the information provided by the tutor is exact and included in the proper sections.

Should you believe the document to be inaccurate or incomplete, you must ask the tutor to make the necessary modifications. Once the document has been modified, ask him to provide you with a copy of the corrected version; a copy should also be sent to the child who is now of full age or emancipated, the liquidator of the succession or the replacement tutor and the Curateur public.

Should the tutor refuse to cooperate or in the event of a disagreement, go to page 36 for further information on how to proceed.

If the Curateur public does not receive a copy of the final administration report within 30 days of the end of the supervision of your management, it will notify the child of full age or emancipated child (**or** the liquidator of the succession **or** the replacement tutor) and advise them of the actions they may take against you.

Ending the security

Ending the security refers to terminating the guarantee provided by the tutor for the protection of the child's patrimony. This step is taken once the tutor has submitted the final administration report to the entities and persons concerned, namely:

- the child of full age or emancipated child;
- the liquidator of the succession, if the child has died; or
- the tutorship council, if you are being replaced in your role as tutor to the property by another person.

Some institutions automatically end the security when a child becomes of full age.

Any expenses incurred to end the security will be paid with funds from the patrimony of the child.

Handing over the property

TUTOR

Once the entire procedure is completed, you will only need to submit the property titles, details of bank accounts and investments, etc.:

- to the child of full age or emancipated child;
- to the liquidator of the succession, if the child has died;
- to the tutor replacing you.

Handing over tutorship documents

TUTORSHIP COUNCIL

At the end of your supervision of the tutorship, you are responsible, as the tutorship council and tutorship council secretary, for handing over the tutorship documents and all supporting documents (bank statements, cheque stubs, bills, receipts, etc.) conserved since the very onset of the tutorship:

- to the child of full age or emancipated child;
- to the liquidator of the succession, if the child has died;
- to the new tutor.

3. Tutorship council meetings

Managing the patrimony of a child can sometimes be difficult. Whether your role is that of tutor or a member of the tutorship council, you might find yourself faced with difficult situations at times. The interests of the child and preservation of the value of the child's patrimony until he is of full age should guide the decisions taken in this regard.

TUTORSHIP COUNCIL

3.1 Calling a meeting of the tutorship council

As members of the tutorship council, you are required to meet at least once a year.

This meeting is an excellent opportunity to obtain a progress report on the tutorship's administration. It also makes it possible to plan for the upcoming year in a fully transparent manner and to oversee the well-being of the child.

It is strongly recommended that the secretary or another member of the tutorship council send participants a notice of convocation as well as a detailed agenda. Participants can also be convened by e-mail or telephone. The meeting, moreover, may be held by videoconference or teleconference.

A meeting can also be held when:

- a decision must be made;
- administrative documents must be examined or approved;
- actions must be taken.

Meetings can also be called at the tutor's request.

Templates of a meeting agenda and minutes are available at
Québec.ca/minor-property-tutorship-tools.

In fact, you must invite the tutors (both parents, if applicable) to each of your meetings. You may also choose to invite the child, if he is 14 years old or more. The child, whether he attends the meetings or not, must be informed of the decisions taken which concern him.

3.2 Holding a meeting

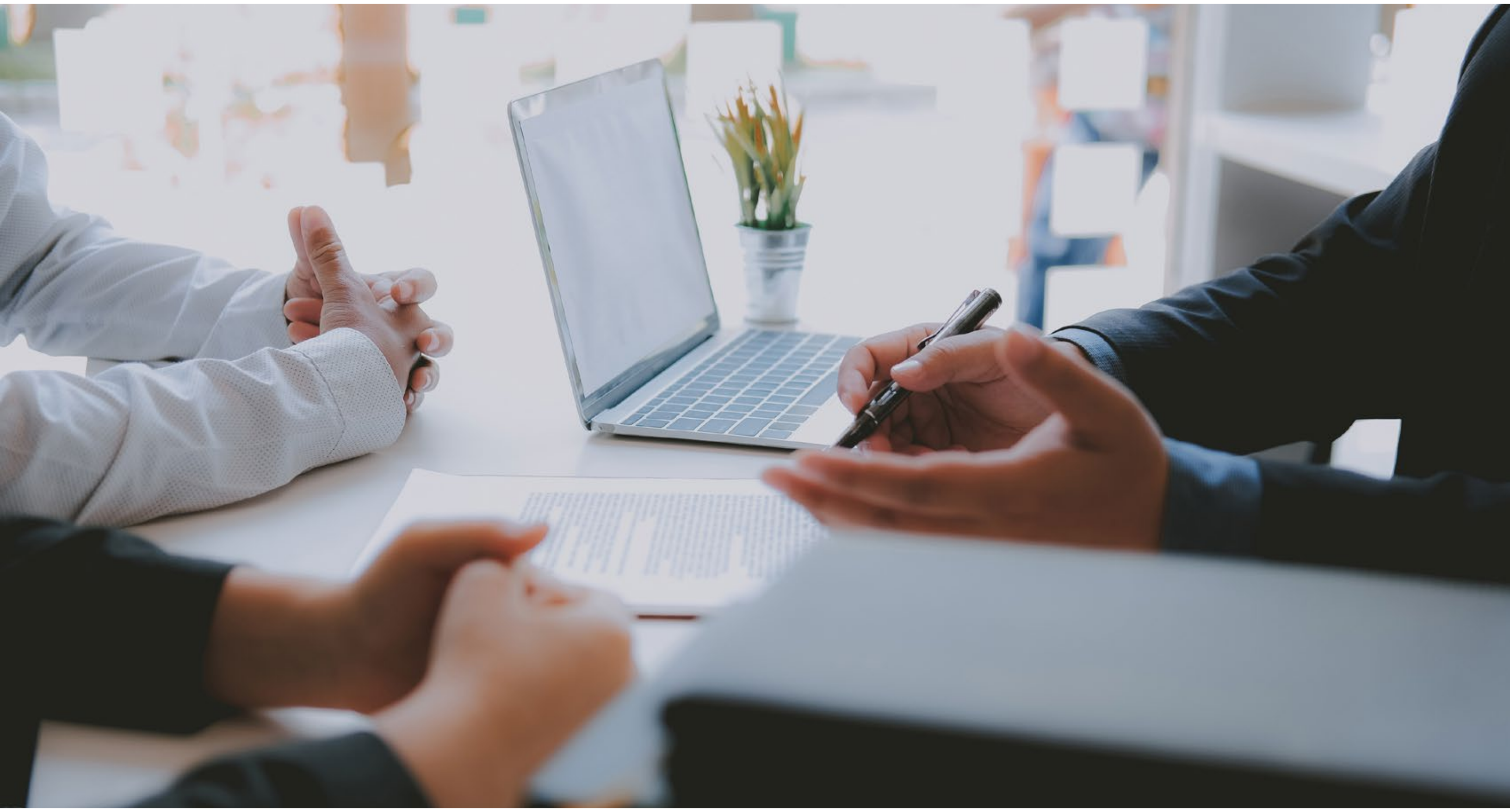
TUTORSHIP COUNCIL SECRETARY

The meeting of the tutorship council may be led by the secretary (if a member of the council) or by one of the council members. All of the points of view expressed during the meeting must be noted. Whenever there is a difference of opinions and the council cannot come to an agreement, the necessary decisions will be made by means of a vote. In such a case, the majority will prevail.

In your role as tutorship council secretary, you are responsible for preparing and saving a copy of the minutes of the meetings. This enables keeping a record of the decisions taken with regard to the management of the child's patrimony. These minutes can sometimes also serve as a starting point for the subsequent meeting.

3.3 Transmitting the information to the Curateur public

While it is not mandatory, it is highly recommended that a copy of all meeting minutes be sent to the Curateur public. These documents allow it to remain apprised of the management of the tutorship and the actions taken to ensure the preservation of the value of the child's patrimony. You could even provide the tutor with these copies, which he can then send to the Curateur public along with the annual management report.



4. Replacing a tutor or member of the tutorship council

There can be various reasons why a parent may no longer be able to fulfil his duties as tutor to the property of his child. Likewise, a member of the tutorship council could die or decide he no longer wishes to sit on the council. What happens then?

TUTORSHIP COUNCIL

4.1 Replacing a tutor

A parent cannot on his own opt to **abandon** his role as a tutor. Should he fail to comply with his legal obligations (preparing the inventory, providing security, preparing and submitting the annual administration report or the final administration report) or execute acts that require the authorization of the tutorship council or the court, you must collaborate with him in the capacity of tutorship council to help him find solutions.

Given that preserving the value of the child's patrimony and protecting his interests are core elements in the tutorship to the property of the minor, a request for replacing the tutor must be filed with the court if the latter continues to be non-compliant.

> **Attention**
> When the tutorship council requests that the tutor (parent) be replaced, the latter is replaced in his role as tutor to the property of the child and not in his role as a parent. The person thus remains responsible for his child's custody and all other related obligations.

Notably, the Curateur public or any other entity or person with a special interest can turn to the court to request the replacement of a tutor. While awaiting the decision, the tutor continues to manage the patrimony of the child, and this unless the court has stipulated otherwise.

TUTORSHIP COUNCIL

4.2 Replacing the secretary or a member of the tutorship council

Replacing the secretary or a member of a tutorship council comprised of 3 members

When one of your members wishes to step down or dies, the other members choose a successor from among the potential persons named in this capacity at the time of the tutorship council's creation (see page 16). Should there be no potential replacements or if those named refuse, in writing, to take on the responsibility, a person will be chosen from among the family members. A person with a special interest could also be appointed, as a last recourse.

> It is recommended that the families of the child's two parents always be represented on the tutorship council.

If the tutorship council secretary wishes to step down from his role or dies when not a member of the tutorship council, one of you (other members) could be chosen to replace him.

If he was a member of the tutorship council, you can choose his replacement from one of the persons named in this regard when the tutorship council was first formed, if applicable. A totally distinct person can be named to replace this person in his role. **The council must always be composed of at least 3 members.**

Whether it be a member of the tutorship council or its secretary, the **Curateur public must receive a written notice of any waiver, replacement or new appointment.** Once the replacement is appointed, you must also immediately notify the tutor and the child if more than 14 years of age.

If a replacement cannot be found, you will need to reach out to the court.

Replacing a tutorship council comprised of one single member

When the tutorship council is formed of but one single person (see page 17), a replacement must be found among the relatives or persons with a special interest of the child. A request must then be filed with the court to appoint a new member and tutorship council secretary. The Curateur public may also be named as a member of the tutorship council.

These steps with regard to a replacement can be taken by the sole member who is resigning, the tutor or any other person with a special interest.

> Whether the replacement be with regard to a tutor, a member of the tutorship council or the council's secretary, it is always possible to obtain help from an attorney or notary. The fees associated with the appointment of a replacement can be paid with funds from the patrimony of the child.

TUTORSHIP COUNCIL

TUTOR

5. Actions to take in the event of non-compliance, or exploitation (financial) or subsequent to the receipt of a report

This section primarily concerns you, in the quality of a tutorship council. It allows you to understand what is meant by non-compliance, (financial) exploitation or a report. It also helps you determine what to do so in such situations.

The information in this section, however, may also be useful to the tutor.

5.1 Understanding the notions of non-compliance and exploitation

What is non-compliance?

In the context of the supervision of a tutorship to the property, non-compliance refers to the tutor's failure to fulfill his legal obligations regarding the management of the child's patrimony. Examples of instances of non-compliance would be a failure to draw up an inventory, to obtain security, or to prepare an annual administration report or a final administration report. It also bears noting that situations involving exploitation could also be considered as constituting non-compliance if they involve the tutor or if the tutor allows these situations to persist without intervening. Such instances of non-compliance could result in the tutor being replaced.

What is exploitation (more specifically, financial exploitation)?

Exploitation consists of taking advantage of a child's vulnerable position to personally benefit from his patrimony. Exploitation can include various types of abuse, but is generally financial. The abuser can be a relative or person with a special interest of the child or anyone else with whom the latter comes into contact.

Financial exploitation occurs when an individual makes use of the money or property of the child for his own personal gains and to the detriment of the child. The latter generally suffers financial and material losses. For example, a tutor who uses the child's patrimony for his own benefit would be practicing abuse.

5.2 Detecting cases of financial exploitation

TUTORSHIP COUNCIL

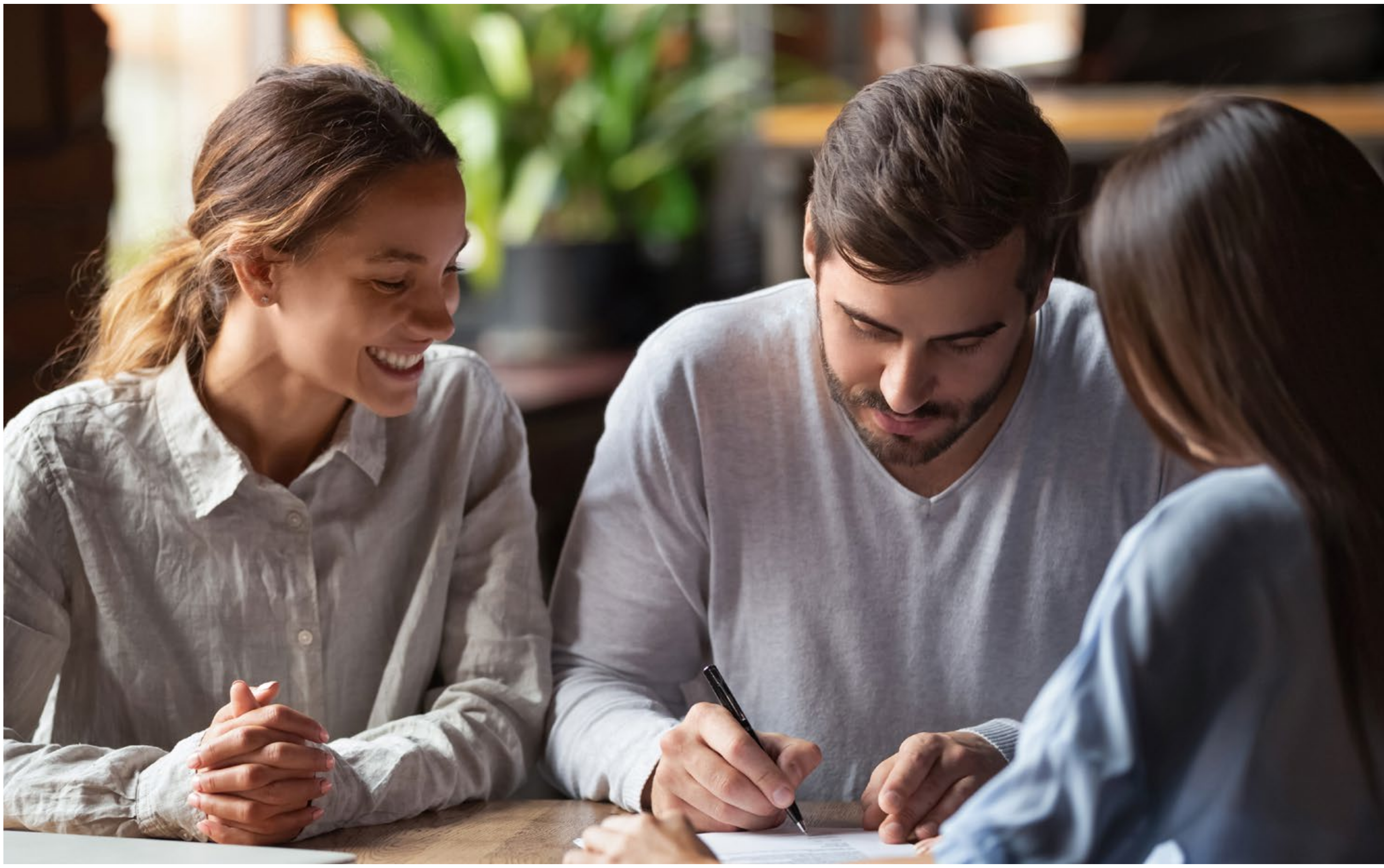
As a tutorship council, one of your primary responsibilities involves supervising the tutor's management activities and helping to resolve difficult situations. When you witness or become aware of a situation involving financial exploitation of a child, you must immediately reach out to the tutor or the perpetrator to bring the situation to an end.

When the tutor is not directly involved in the exploitation, he must, in his capacity as the child's legal representative, intervene with the perpetrator to bring the situation to an end.

Below are certain signs that may point to poor financial management.

- Withdrawals of significant sums from the child's bank account or an increase in the number of banking transactions.
- An unusual real estate transaction.
- Late payments (bills, various accounts, etc.).
- The disappearance of items (physical property) belonging to the child.
- Fraudulent investments.

As the tutorship council, you can bring such situations to the attention of the Curateur public, as needed.



TUTORSHIP COUNCIL

TUTOR

5.3 Steps to take with regard to a report

What is a report?

Filing a report consists of notifying the Curateur public of a situation that could pose a threat to the security and physical or mental well-being of a person or cause harm to his patrimony. The Curateur public's responsibility within the framework of a tutorship to the property of a minor is limited to the patrimony of children. The reports it receives moreover, primarily concern cases of negligence or financial exploitation. A report is generally made by an individual close to the family or by an organization.

Reports that concern a child's well-being – and not his patrimony – must be submitted to Youth protection (Direction de la protection de la jeunesse).

Intervening in response to a report

Whenever the Curateur public is apprised of a situation that could cause harm to the child's patrimony, it handles the report.

Depending on the situation, the Curateur public can ask the tutorship council or the tutor (as long as they are not targeted by the report) to initially handle the report. It will provide all of the necessary support during this phase.

If the report cannot be handled by either the tutor or the tutorship council, the Curateur public will take on the matter. It then takes all of the necessary steps to rectify the situation and protect the patrimony of the child.

Available assistance

As mentioned throughout this guide, supervision of the management of the child's patrimony requires the involvement of numerous persons and entities (the child, the tutor, the tutorship council and the Curateur public). Each of them has a very specific role as well as unique responsibilities and obligations. Cooperating in the interest of the child is critical, as the goal of the supervision is to preserve the value of the child's patrimony so that it can be handed over to him once he is of full age. We urge you to reach out to the other parties involved in the tutorship if you have any concerns or questions regarding the decisions made or steps to take.

The Curateur public appreciates your investment in the tutorship to the property of your child and urges you to contact us should you require any support or assistance moving forward.

CONTACT US

By telephone

1 844 LECURATEUR (532-8728)

Monday, Tuesday, Thursday and Friday:
from 8:30 a.m. to 12:00 noon and
from 1:00 p.m. to 4:30 p.m.

Wednesday:
from 10:00 a.m. to 12:00 noon and
from 1:00 p.m. to 4:30 p.m.

By e-mail or by mail

To send us an e-mail or obtain
the address of our offices
Québec.ca/curateur-public-contact-us.

November 2022

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