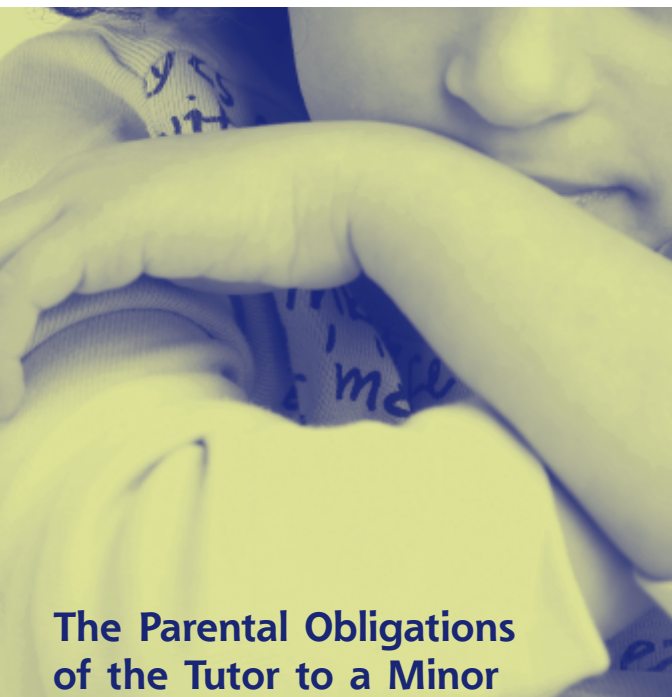




MOM, DAD WHAT ARE YOU DOING WITH MY MONEY ?



**The Parental Obligations
of the Tutor to a Minor**



Do your minor children have assets?

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

As a parent, can you use this money for the family? Can you use it to pay for your minor children's expenses?

How do you balance your parental obligations, your obligations as legal tutor and the protection of your children's assets?

YOUR OBLIGATIONS AS A PARENT

Parents must care for their minor children, feed them, clothe them, house them etc., and when they administer money or other assets in their name, they must not mix their assets with those of their minors. Parents must not use one child's assets for other members of the family, such as brothers and sisters, and must avoid situations where there may be a conflict of interest.

The fact that your children have assets or income of their own does not release you from your duty to support them with your own money. Parents have obligations to support and care for their children, and some of these obligations end when the children reach full age (18), while others remain for the rest of their lives. However, it should be noted that children of all ages also have obligations toward their parents.

Child support

Parents, both father and mother, are required to provide for the basic needs of their children. That is the child support obligation. Examples of this obligation include providing food, clothing, housing, education, personal care, transportation, recreation, etc.

However, if you are in need and incapable of fulfilling your child support obligation while your children have a large amount of capital, depending on the circumstances, they may have to assume some of their own expenses.

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

Child care

You also have the obligation to care for your children, which means you must look after them, supervise them and raise them. This obligation depends on your standard of living and not on your children's assets. Contrary to the child support obligation, it is not mutual. This obligation ends when your children reach full age.

YOUR OBLIGATION AS A LEGAL TUTOR

Except in certain cases, your minor children cannot exercise their rights themselves. They must be cared for and represented by an adult. In Québec, under the *Civil Code*, their parents are their legal tutors and as a result have certain obligations.

Administration of assets

You act as the administrator of the assets of your minors. That means you must ensure that your children's assets (inheritance, life insurance benefit, allowance received or any other tangible asset) are preserved so that they can be transferred to them when they are of full age. At that time, you must account for your administration of their assets.

Transfer of assets

The tutorship ends when the child reaches 18 years of age. You must be able to demonstrate in the report on your tutorship that any sums you used contributed to the welfare of the child and were spent judiciously, with the authorization of the tutorship council, where necessary. It is important to keep supporting documentation, such as receipts and invoices for the amounts spent, since all tutors are required to prepare a report at the end of the tutorship, whatever the amount they managed on behalf of minors.

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 that are presumed sound.



ARE THERE CIRCUMSTANCES IN WHICH THE FATHER OR MOTHER IS ALLOWED TO USE THE INCOME OR EVEN THE CAPITAL OF THEIR MINOR CHILDREN?

If you are employed and have the means to provide for the needs of your children, the sums received in their name must not be used to assume your child support obligation.

In the exceptional cases in which you must withdraw sums from the assets you administer to pay for some of your children's expenses and thus fulfill your parental obligations, your financial situation, your income and your children's needs must be taken into consideration at that time.

If your income is insufficient to pay for some of your child's expenses, you will first be able to use some or all of the interest generated by investment of the capital and, where appropriate, part of the capital itself. In that case, the authorization of the tutorship council will be required.

Inventory of assets

Although the inventory of assets is not always required at the beginning of the tutorship, it is a good idea in both the interest of the tutor and the minor. In fact, this inventory constitutes a benchmark that makes it possible to determine the value of the assets at the beginning of the tutor's administration and helps him or her justify the final amount transferred.

DATIVE TUTORS

A tutor to a child who is not either of the child's parents is called a *dative tutor*. The dative tutorship is 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 their minors, they can use the tutorship income and some of the capital to ensure that the children are generally cared for.

Dative tutors basically have the same rights but more obligations than legal tutors since they must prepare an inventory, submit an annual report and form a tutorship council, **whatever the amount to be administered.**

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, mothers and fathers can request that the court appoint one person to assume this task.

Since the tutorship council knows the tutor and the minor child, it can authorize expenses depending on their respective financial situations and the minor's needs. These needs may vary according to the child's age and various circumstances. Decisions must be made in the minor's interest and in consideration of his or her wishes to the extent possible.

The tutorship council is required in all cases of dative tutorship and in the case of legal tutorship, when the total assets to be administered are more than \$25,000.

The tutorship council must then determine the **security** the tutor must provide in order to guarantee proper performance of his or her duties and protect the minor's assets. This security usually takes the form of a hold of funds placed in a financial institution.

AND THE CURATEUR PUBLIC DU QUÉBEC?

The Curateur public informs parents and families of their obligations as a tutor or a tutorship council and helps them manage them at their request.

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



The minor's income

Wages

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

Compensation

These are funds to which children are entitled, for example, in the event of a car accident or work injury involving one of their parents or themselves. They may be paid in the form of a single benefit or as periodic annuities, under a contract or law.

This money can be used to benefit children if it replaces what was paid by parents prior to their incapacity or death. It must be preserved and transferred to minors when they reach full age in other cases or, if they compensate for bodily harm a child has suffered.

Trusts

A third party, such as a liquidator of an estate or a trustee, may be given the duty of administering sums that will later be transferred to the children, for example when they turn 18, 21 or 25. If the will or the trust deed stipulates that the third party must assume some of the minor's expenses, such as for studies, 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.

To find out more about the tutorship council and the tutor to a minor, consult one of the leaflets available at the Curateur public or our Internet site at www.curateur.gouv.qc.ca.

**Have questions
or want more information?**

information@curateur.gouv.qc.ca

Tel.: 514 873-4074
| 800 363-9020

To reach us
Click here.