

Administering the **property of a minor**

How to proceed?

Awareness | Support | Action



A child under the age of 18 can receive an indemnity, life insurance or an inheritance, and even own property (money, buildings, cars, land, etc.). However, being a minor, his tutor is responsible for administering these assets on his behalf, until he reaches the full age.

But can the tutors use that money for the whole family?

Can they spend it on things the child needs or to improve their quality of life?

To adequately administer a child's property, it is important to understand the obligations of both the parents and the tutors to the child's property, as well as the differences between the two.



Different types of tutors

The tutor is the person in charge of protecting the child, administering his property, and representing him in exercising his civil rights. There are three types of tutors: legal, suppletive and dative.

Legal tutor (the parents)

As the legal tutors, the parents are primarily responsible for their child. They also have parental authority.

Parental authority is all the rights and obligations that the parents have toward their minor child. This authority enables them to make the decisions necessary to ensure his well-being, and makes them responsible for meeting his essential needs by looking after his health and safety, his upkeep (food, clothing, etc.), his care (housing) and his education.

Suppletive tutor

The suppletive tutor is a person to whom a parent delegates their responsibilities to their child or with whom they share these responsibilities. For example, a parent may want to share their responsibilities with a new spouse without the latter necessarily adopting their child. Similarly, a single parent under the age of 18 could delegate their tutor's responsibilities to an aunt, who would then have the authority to make decisions about the child. This designation must be authorized by the court.

Dative tutor

The dative tutor is a person designated by the parents to care for their child in the event of their death or incapacity. The court can also designate a dative tutor upon request.

Obligations of tutors

Whether legal (parents), suppletive or dative, tutors must act with diligence and honesty at all times. They must always act in the child's best interest and respect the latter's rights in any decisions they make about them.

Obligations of legal tutors (parents)

Legal tutors have the following responsibilities to their child:

Obligation to protect them

Protecting them involves looking out for their well-being by meeting their basic needs. Parents have a duty to ensure their child is healthy and safe, fed and clothed, housed, and educated.

Even if their child owns property, parents must pay for the child's basic needs themselves. This is what is known as the parents' **obligation of support**.

Obligation to ensure the exercise of their civil rights

Ensuring the exercise of the child's civil rights means representing them in acts they cannot perform alone, for example, signing a contract to buy a car. Another example is suing an insurance company that refuses to pay for stolen computer equipment belonging to the child.

Obligation to administer their property

Administering the child's property (money, buildings, cars, land, etc.) means doing whatever is necessary to preserve its value, so that it can be returned to the child once they reach full age or become emancipated.

Obligations of the suppletive tutor

The suppletive tutor has the same obligations as the legal tutor. However, they have no obligation of support toward the child. This means they do not have to use their own money to meet the child's basic needs. This is the parents' responsibility.

Obligations of the dative tutor

The dative tutor also has an obligation to administer the child's property and help them exercise their civil rights. However, they have no obligation of support toward them. As such, they can use the child's property to meet their basic needs when the parents' income is not enough to meet their obligation of support or when the parents are deceased. However, it is advisable to check with the Curateur public before doing so.

A legal, dative or suppletive tutor therefore has a mandate of simple administration, meaning they must maintain the value of the child's property until the latter reaches full age. They cannot use the child's assets for their personal expenses or the needs of the family, nor can they combine them with their own assets. However, they could use them in highly specific situations and on an exceptional basis. See page 8 for more details.



Oversight of the management of the child's property under tutorship

When the child has assets worth more than \$40,000, the parent's or dative tutor's management of those assets is subject to mandatory oversight by the Curateur public. In a dative tutorship, this oversight by the Curateur public is automatic, regardless of the value of the administered assets.

Obligations of tutors

When oversight of a tutorship begins, the tutors (legal, dative and suppletive) are entrusted with the following responsibilities:

Forming a tutorship council

A group generally made up of three people chosen from among the adults close to the child (usually their family members). Its main role is to oversee the tutor's management. In addition, the council acts on behalf of the minor when it is provided that the minor must or may consent to an act of his or her guardian, receive advice or be consulted by his or her guardian. The tutorship council then takes the place of the minor child in these discussions. You can also have it done by a notary or an accountant.

A tutorship council is mandatory for a dative tutorship, regardless of the value of the assets.

Taking an inventory

Within 60 days of the judgment granting the tutorship or the payment of an amount that brings the minor's assets to over \$40,000, the tutor must produce an itemized list of the child's property. This list is called the inventory. The inventory can be produced with help from a notary or using the form provided by the Curateur public and signed by two adult witnesses. Once the inventory is completed, the tutor must send a copy to the tutorship council and to the Curateur public.



Providing the security

The tutor must provide a security when the value of a child's assets exceeds \$40,000. This is a guarantee that protects the value of the child's assets so that his or her patrimony is protected or compensated in the event of mismanagement.

If they were not determined within six months of the start of oversight, the amount and type of the security, and deadline for providing it, are determined by the tutorship council or the Curateur public.

Providing the annual administration report

The annual administration report is a record that the tutor makes of the management of the minor child's property for the year. It shows all the income and expenses incurred on their behalf. It is also accompanied by bank and investment statements and key supporting documents. It is a form that must be filled out annually, within 90 days of the anniversary date of the start of oversight. Once the form has been filled out, a copy of the annual administration report must be given to the tutorship council, the Curateur public, and to the child, if age 14 or over.

Can the parents or the tutors use the child's patrimony?

During the tutorship of a minor, the parents and the tutors have an obligation to preserve the child's property so that it can be returned to them once they reach full age. However, there are some situations in which the tutors can use the child's patrimony.

They can use the patrimony to cover **expenses related to the tutorship**. These are expenses directly related to the management, protection and preservation of the child's property, for example, minor maintenance work on a building owned by the child or accountant's fees to produce the annual administration report.

Exceptionally, and under certain conditions, they can also use them to meet the child's basic needs. This may include, but is not limited to, expenses related to:

- **their health:** dentist, orthodontist, optometrist fees;



- **schooling:** school fees, school supplies, school and extracurricular activities (field trips, summer camp, etc.);
- **workplace integration:** tuition fees, purchase of work tools, fees for special vocational programs, transportation costs.

Any use of the child's property must be discussed with the tutorship council.

Certain indemnities, namely those paid by the Société de l'assurance automobile du Québec (SAAQ), the Direction de l'indemnisation des victimes d'actes criminels (IVAC), and the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST), can also be used for the benefit of the minor child to help the parents meet their obligation of support. Visit [Québec.ca/tutorship-property-minor](https://quebec.ca/tutorship-property-minor) for more details.



End of obligations

The tutorship ends once the child reaches full age, becomes fully emancipated, or dies. The parents or tutors must then provide a **final administration report**. The final report is a document describing how the child's property was managed during the tutorship. It must be given to the child (of full age or emancipated), to the tutorship council, to the Curateur public, to the child's heirs (if deceased), and to the new tutor, if the child remains under tutorship after turning 18.

The parents or tutors must also hand over the child's property, either to the child (of full age or emancipated), to the new tutor, or to the liquidator of the child's succession (if deceased).



The child's rights

A minor child cannot perform certain acts of civil society, such as vote. Nor can they sue someone or even sign a lease with a tenant for a house they own. They must be represented by their tutors, except in cases where the law allows them to act alone. However, the older they get, the law grants them the exercise of various rights. For example, starting at age 14, they can consult a doctor on their own and consent to treatment. They can work without a parent's or tutor's permission. If they are working, they can manage their own income and use it for personal expenses, such as buying clothes, books or video games. Starting at age 14, they also have the right to know how their parents or tutors are managing their property. For more information about a minor child's rights, visit [Québec.ca/tutorship-property-minor](https://quebec.ca/tutorship-property-minor).

The role of the Curateur public

When the Curateur public oversees the administration of a tutorship to the property of a minor, it informs the tutors and the tutorship council of their obligations. It also oversees the tutors' management in collaboration with the tutorship council. It may also intervene with the tutor if it determines that the child's property is not being adequately protected.

For more information, visit [Québec.ca/tutorship-property-minor](https://quebec.ca/tutorship-property-minor).

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