

Administering the property of a minor

Guide for the dative tutor and the tutorship council

Awareness | Support | Action



Produced by Curateur public

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Guide for the dative tutor **and the tutorship council**

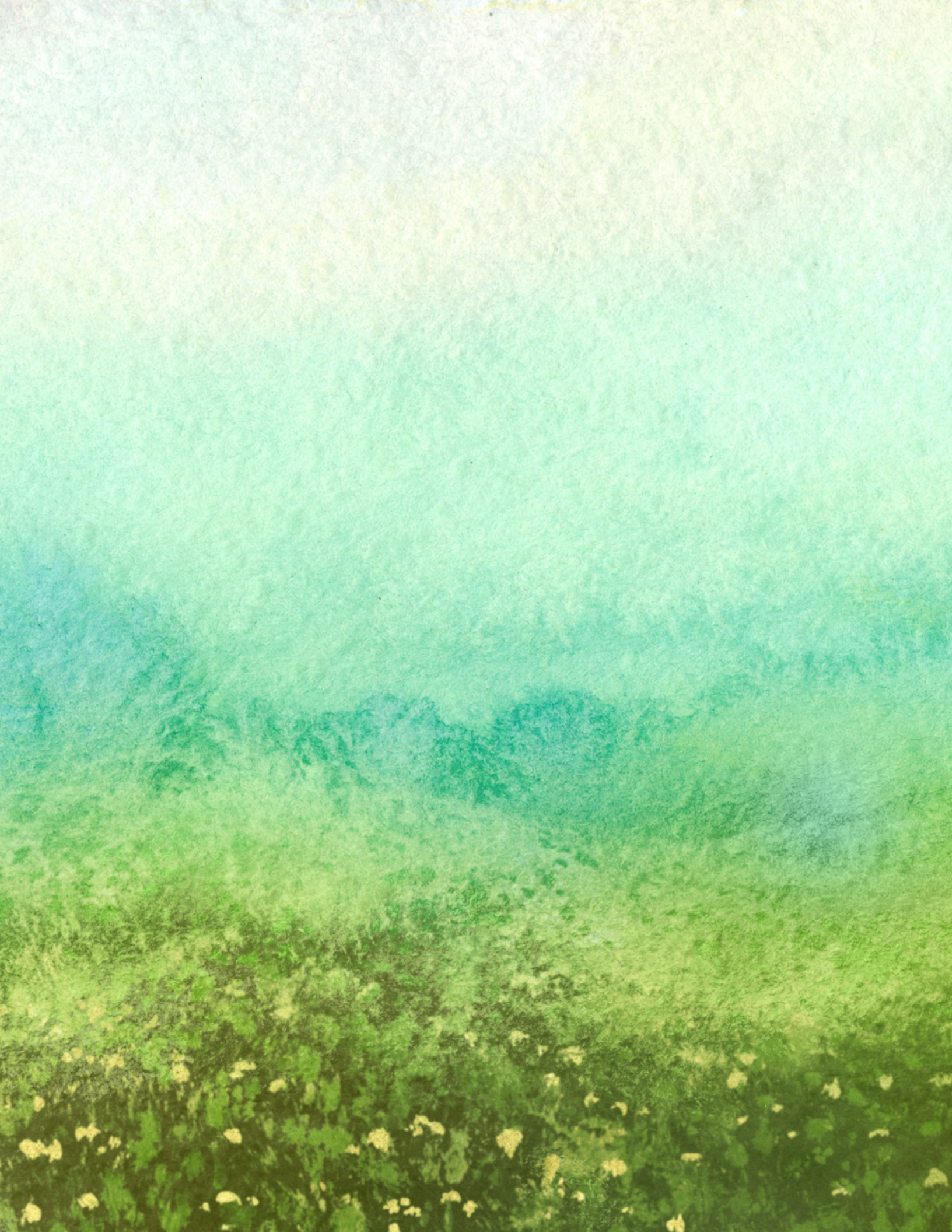


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Steps for institution of a dative tutorship to the property of a minor

Designation of a dative tutor by the parents

This designation is signified in the parents' will, by means of a protection mandate or through a written statement sent to the Curateur public by both parents.

The person named has 30 days from the time he is apprised of this designation (when the parent dies or becomes incapable) to accept or refuse the role of tutor.

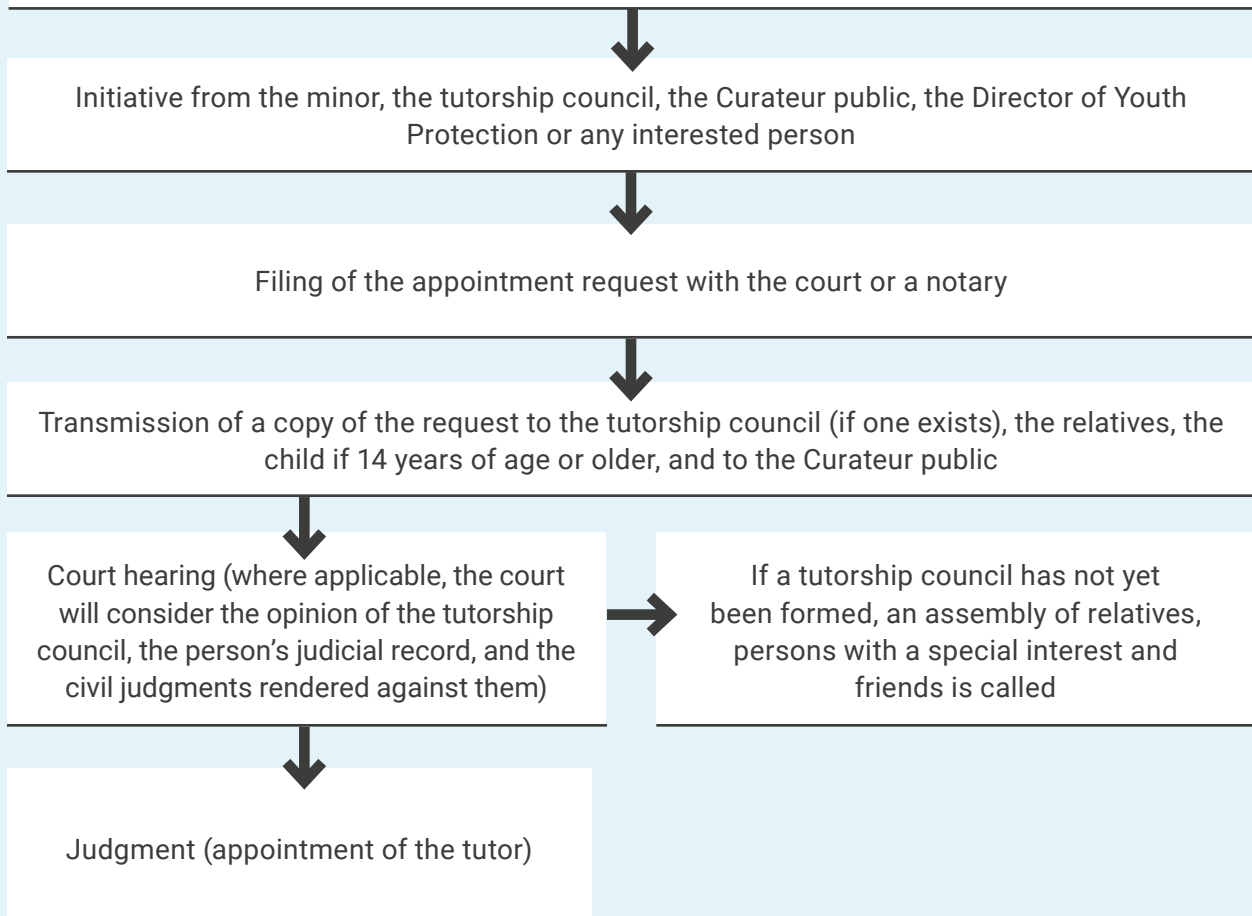
If the person accepts or has not refused the designation within 30 days of being so apprised, the law considers that he has agreed to take on the role of tutor.

If the person refuses and the parents have named a replacement, this individual will assume the role. Otherwise, a request must be submitted to the court so that another tutor can be designated (see next page, appointment of a tutor by the court).

Rules which the dative tutor must comply with in the case of a tutorship to the property of a minor:

- Create a tutorship council immediately, if no such council exists ([see page 18](#)).
- Draw up an inventory of the property of the minor to be managed, and this within 60 days of his appointment ([see page 19](#)).
- Provide security, i.e., a guarantee to protect the minor's patrimony ([see page 22](#)).
- Manage his patrimony separately from that of the minor (he cannot deposit the minor's money in his own bank account) ([see page 24](#)).
- Execute a financial follow-up to facilitate management of the patrimony ([see page 30](#)).
- Provide reports concerning his management to the tutorship council, the Curateur public and the minor if aged 14 years or more ([see page 30](#)).

Appointment of a dative tutor to the minor by the court



Requirements to become a dative tutor

If the child's parents do not propose a dative tutor, a person wishing to become one must request a **judicial record check** (background check) from a police force. The police force will issue either a certificate of no judicial record or a judicial record list. The person must also make a sworn statement before a commissioner for oaths declaring that they have never had a civil judgment rendered against them or, where applicable, listing the judgments against them. The affidavit must also state whether the person has ever declared bankruptcy. Having a judicial record, prior civil judgments, or a previous bankruptcy does not automatically disqualify a person from being appointed as a dative tutor by the court.

Background

Parents are generally responsible for a child under the age of 18, i.e., until he is of full age. Sometimes, however, circumstances will be such that parents cannot care for their child up until this time. For example:

- if the parents die;
- if they can no longer care for themselves and their property, or have a physical limitation that prevents them from expressing their wishes (i.e., they have been declared incapable);
- if they have been relieved of their parental authority.

A dative tutorship is then established to ensure the protection of the minor, the management of his property and the exercise of his civil rights. The Curateur public supervises all dative tutorships involving the management of the property of a minor. This measure is provided for in the Civil Code of Québec to ensure the preservation of the minor'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 patrimony of a minor child in the quality of a dative tutor?

You must supervise the management of this patrimony, as a 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.

If you have been designated to care for a minor, note that your responsibilities in this regard are not covered in great detail in this guide, as they do not fall under the mission of the Curateur public, but rather that of the Director of Youth Protection (DYP).

This guide also concerns you if you have been named a suppletive tutor by virtue of a parent either entrusting you with his responsibility vis-à-vis his minor child or sharing these responsibilities with you. Note that if the value of the patrimony of the minor to whom you are a suppletive tutor exceeds \$40,000, your obligations in this regard are the same as those of a dative tutor. To that end, the sections of this guide of interest to the dative tutor also concern you.

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



TUTOR

The section is destined for the tutor.



TUTORSHIP
COUNCIL

The section is destined for the tutorship council.



TUTORSHIP
COUNCIL
SECRETARY

The section is destined for the tutorship council secretary.

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

1. Persons involved in a tutorship

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

1.1 Dative tutor



A dative tutor is a person named by the parents of a minor child to care for the minor should they die or become incapable. The person is designated either in a will, by means of a protection mandate (mandate in the event of incapacity) or by a *Declaration of Dative Tutorship* form, available at [Québec.ca/minor-property-tutorship-forms](https://Quebec.ca/minor-property-tutorship-forms), submitted to the Curateur public. The tutor can also be appointed by the court. The person named as dative tutor is often a relative or person with a special interest.

One tutor or several tutors

A dative tutorship is comprised of two elements: protection of the minor's person and protection of the minor's property. The first is called a dative tutorship to the person and the second, a dative tutorship to property.

A minor will usually have both his person and property managed by a single dative tutor. That being said, there could be one or more dative tutors, among them:

- a tutor to the person, who oversees the well-being of the minor and ensures that he is able to exercise his rights;
- one or more tutors to the property, who manage the minor's patrimony and represent him with regard to certain actions.



Unlike parents, a dative tutor has no obligation to provide support to the minor. This is why, when the income of the living parents no longer allows them to fulfil their **obligation to provide support** or if the parents are deceased, you could turn to the patrimony of the minor to meet his essential needs: food, clothing, housing, education/studies, personal care, transportation, leisure activities, vacations, orthodontic services, etc. However, if one or both of the parents are still alive and their income does allow them to fulfil their obligation to provide support, they must personally incur these expenses.

Moreover, if two tutors were appointed (a tutor to the person and a tutor to the property of the minor), the dative tutor to the person can ask the tutor to the property to establish a budget, paid with funds from the patrimony of the minor, to meet the latter's needs and uphold his lifestyle. This process should be maintained until the minor is of full age.

Understanding the responsibilities of the dative tutor as regards the patrimony of the minor

As a dative tutor, you must preserve the value of the minor's patrimony so as to hand it over to him when he turns 18 or is emancipated ([see page 16](#)). 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 actions ([see page 14](#)).

Your appointment as a dative tutor to the property of the minor legally requires that you meet specific obligations. These obligations are further explained in the section "Workings of a dative tutorship to the property of a minor" ([see pages 18 to 35](#)).

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 minor'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.

Resource in the event of a disagreement among the dative tutors or with the parents

Within the context of a dative 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 27](#)).

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 minor 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 minor'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 minor 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 minor when its value exceeds \$40,000) and ensure that it remains compliant ([see page 23](#));
- authorize the tutor to perform certain acts and provide advice to the court regarding certain acts or decisions;
- ask the court to appoint an **ad hoc tutor** to ensure that the interests of the minor are protected. The ad hoc tutor represents the minor 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 42](#));
- 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 minor is the beneficiary ([see page 27](#));
 - accepting a donation with possible financial charges on behalf of the minor (in other words, a donation carrying obligations);
 - the simple emancipation of the minor (as of the age of 16) ([see page 16](#)).
- **The court will ask for your opinion as regards:**
 - the amounts of money, earned by working, which the minor can continue to manage;
 - the appointment of an ad hoc tutor ([see page 13](#));
 - the emancipation of the minor ([see page 16](#));
 - the sale of property or loans contracted when the value exceeds \$40,000;
 - the remuneration of the tutor, when necessary.

The dative tutor or the tutorship council member essentially perform their duties without any compensation, i.e., for free. However, when management of the minor'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 father, mother or liquidator of their succession can also establish the dative tutor's remuneration.

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 minor's patrimony or prior to making a decision concerning specific property.

1.3 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 Minor

The minor 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 minor with regard to the management of his patrimony

As soon as the minor 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 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 minor 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 minor 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 minor will be entitled to spend.

Emancipation of the minor

Emancipation provides the minor 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 to perform certain acts as though he were of full age. It puts an end to the parental authority exercised by the parents or by the tutor. The minor's tutor, however, must help him with all acts that go beyond the **simple administration** (see page 12).

A minor can receive a simple emancipation by asking his tutor or submitting a request to the court. If the minor 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 du Québec. This form is available at [Québec.ca/minor-property-tutorship-forms](https://quebec.ca/minor-property-tutorship-forms).

Full emancipation

Full emancipation is when a minor can exercise his civil rights as though he were an adult. At 16, for example, a minor 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 minor 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 minor'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 tutorship or if it is taking on the role of tutorship council;
- takes on the role of tutor to the property of the minor 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 minor's patrimony.

The register of tutorships to minors

At the onset of a dative tutorship, the Curateur public adds information regarding the minor and his tutors to the register of tutorships to minors. This register, which is regularly updated, comprises:

- the case/file number assigned to each dative tutorship by the Curateur public;
- the date of the judgment establishing the onset of the tutorship;
- the first and last names of the minor;
- the first and last names of the dative tutors;
- the responsibilities of the dative tutors (protection of the property and/or protection of the person).

When the minor 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](https://quebec.ca/register-representation-measures) or by calling 1 844 LECURATEUR (532-8728). The name and date of birth of the minor will need to be provided.

2. Workings of a dative tutorship to the property of a minor

To ensure a proper management of the minor'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 the minor's money in the Security Investment, you could find yourself spared from having to comply with a number of these obligations (see page 22).



2.1 Creating the tutorship council

A tutorship council must absolutely be formed after the onset of a dative tutorship. This will not apply to you if the tutorship council already exists at the time of your appointment (for example, if you are replacing an existing tutor). If this situation applies to you, go to step "2.2 Preparing the inventory".

If there is no tutorship council in place at the time of your appointment, focus on beginning this process as soon as possible. Below is a description of the steps to take.

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 minor'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 minor. 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 minor's grandparents, then to his living parents, his brothers and sisters of full age, and then to you, his tutor (or to his tutors, as the case may be). An invitation can then be sent to members of the extended family who have regular contacts with the minor. 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, 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.

If the value of the minor's patrimony is not very significant, you could be eligible for legal aid. **Legal aid** is a public service designed to allow people on a low income to benefit from the services of an attorney either free of charge or at a minimal cost. For more information, go to aidejuridique.qc.ca (in French only).

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 minor's patrimony.

Attention

Because the tutorship council is required to ensure an adequate supervision of the management of the minor's patrimony, a failure to create such a council could be considered a violation of your obligations. The consequences could go up to and including replacing you as tutor to the property of the minor.

2.2 Preparing the inventory



Preparing the inventory involves preparing a detailed **list of all the assets and debts** of the minor as of the date of your appointment as tutor. 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.

Timeframe

The inventory must be drawn up within the 60-day period following your appointment as a tutor to the property of the minor.

If appointed to replace another dative tutor or the parents in their role of tutor to the property of the minor, you are not required to provide an inventory if the parties in question have submitted their final administration report. This document is sufficient, unless your appointment was in conjunction with a change to the patrimony of the minor.

The inventory enables you, in your role of tutor, to have a fair idea of the type and value of the minor's patrimony whose management you were entrusted with. It will also be of help when establishing the amount of the **security** (see page 23) and when preparing the **annual management report** (see page 31). The inventory can be either notarized or signed in front of two witnesses.

If you are a tutor to more than one minor, 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 minor is easy to enumerate in a list format.

In preparing this inventory, you must:

- gather all of the necessary documents (see the *Inventory Checklist [sample]* at [Québec.ca/minor-property-tutorship-tools](https://quebec.ca/minor-property-tutorship-tools));
- fill out the *Inventory by Private Writing (before two witnesses)* form found at [Québec.ca/minor-property-tutorship-forms](https://quebec.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 minor consists of numerous and diverse items (investments in several financial institutions, immovables and shares of companies, for example), you may prefer calling on the services of a notary. The notary fees in such a case are deducted from the minor's patrimony.

Providing incomplete information

The inventory must be prepared within the timeframe of 60 days following the onset of the tutorship. Whenever you become aware of new information pertaining to the minor'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.

For information how to proceed, refer to the instructions on pages 5 and 6 of the form entitled *Inventory by Private Writing (before two witnesses)*. This document is available at [Québec.ca/minor-property-tutorship-forms](https://quebec.ca/minor-property-tutorship-forms).

When the minor 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 minor, if 14 years of age or more (you will need to explain the content of the inventory to him);
- the dative tutor to the person (if such is the case).

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

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 tutorship;
- the inventory lists all of the property and debts of the minor;
- 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 [sample]* at [Québec.ca/minor-property-tutorship-tools](https://quebec.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

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 tutorship, failing which the Curateur public will do so.

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

Understanding the various types of security

The Curateur public du Québec recognizes four types of security: holding of funds, Security Investment, mortgage security 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 minor'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 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 minor'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 minor'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 minor is of full age or emancipated, the accounts will be placed in his 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 epq.gouv.qc.ca/en/products-offered/the-security-investment.

Mortgage security

A mortgage security is a contract that enables the tutor to offer a building which he owns as a guarantee. Should the tutor subsequently spend the minor'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 notary 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 minor's patrimony. This type of security offers a reimbursement to the minor 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 minor's patrimony, the expenses associated with the preservation of the patrimony, etc.

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 turning to the minor's patrimony is being considered, and this because the income of the living parents does not allow for covering all of the expenses of the minor, contact the person responsible for the minor's file at the Curateur public if this has not already been done.

If the parents are deceased, a budget must be established in conjunction with the tutor to account for the minor's expenses; a holding of funds should be requested for the balance of the patrimony.

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](https://quebec.ca/minor-property-tutorship-forms).

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;
- Complete 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](https://quebec.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 30). 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 40).



TUTOR

2.4 Managing the minor's patrimony

For as long as you have the role of dative tutor to the property of the minor, you must take care to properly manage the minor's patrimony and protect his 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.

Remember to notify the various government agencies of your appointment as dative tutor to the property of the minor concerned by the tutorship.

Establishing a distinct patrimony

The patrimony of the minor 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 minor'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 minor's bank accounts and investments will be signed as follows:

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

Pierre Toutlemonde

Pierre Toutlemonde, acting as the tutor to
Jacob Toutlemonde

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

Pierre Toutlemonde

Jacob Toutlemonde, by Peter Toutlemonde,
acting as the tutor

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.

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

Identifying the sources of income of the minor

In addition to having separate bank accounts, you must also identify the sources of income of the minor. There can be a number of such sources (various indemnities or annuities, interest income from investments, rental income [from a building], gifts, an inheritance, etc.). To determine whether the minor'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 minor 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

Some parents or tutors may be eligible for financial assistance with regard to the care of minor children for whom they are responsible. Also, a minor 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 or tutors	Custody/guardianship of a child/minor	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 minor	Orphan's pension	Survivors' Benefits	Retraite Québec
	Highway accident	Indemnity for Students Lump-sum compensation for loss of quality of life	Société de l'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 the minor 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 minor 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 **during the tutorship**, 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

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

- opened up distinct accounts for managing the finances of the minor;
- registered the minor'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

As a tutor, you must obtain authorization from the tutorship council to sell an asset, item or property belonging to the minor 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 minor, 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

A minor 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 debts are 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 minor 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 minor

You may be required to file a tax return for the minor, 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 minor. Contact **Revenu Québec** or the **Canada Revenue Agency** for more information on your obligations regarding tax returns for the minor.

Paying the tutorship expenses

The **tutorship expenses**, i.e., the expenses directly linked to the management, protection and preservation of the patrimony of the minor, 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 minor 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 minor's patrimony

Preserving the value of the minor's patrimony is a key element in a tutorship to the property of a minor. If you are replacing the living parents in their role of tutor to the property, these parents will still have the obligation to provide support and care to the minor (see page 12). They must continue ensuring that the minor has access to the necessary food, clothing, housing, education/studies, personal care, transportation, leisure activities and other products or services he might need. They must pay the associated costs with their own funds.

Unlike parents, you have no obligation to provide support to the minor. This is why, if the parents are deceased, you can make use of the minor's patrimony to meet his needs: education/studies, personal care, transportation, leisure activities, vacations, orthodontic services, etc.

You will, however, need to prepare a budget in conjunction with these expenses, and this until such time as the minor is of full age.

Understanding extraordinary circumstances and learning how to respond

When the personal income of the **living** parents does not allow them to fulfil their **obligation to provide support** and you subsequently find yourself obligated to turn to the patrimony of the minor, the tutorship council may very well authorize you to incur expenses with regard to:

- **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](https://quebec.ca/minor-property-tutorship-forms). You will notably need to explain the planned expense and why it is necessary.



Decision-making criteria

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

- **Is use of the patrimony absolutely essential?**
Check whether there are other means of paying for the goods or services that the minor requires. For example, there may be certain government allowances that cover the specific needs in question. Moreover, some allowances are remitted to help parents or tutors meet the needs of the minor ([see page 25](#)).
- **Is the expense in the interest of the minor?**
The expense in question must serve to meet an essential need of the minor (health, education or labour market integration). It must, in other words, support his personal development.
- **Does the income of the living parents allow them to pay for the product or service in question, without having to turn to the minor's patrimony?**
Check the financial status of the living 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](https://quebec.ca/minor-property-tutorship-forms).
- **Does the expense consider the minor'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 minor's patrimony, which must be remitted to him once he is of full age.

This being said, should making use of the minor'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 minor aged 14 years or more of the decisions taken that could possibly impact him.

Making use of certain indemnities paid to the minor

Some benefits might, for example, be paid to a minor to replace the income of a deceased parent. If the minor 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

It will be important to use an accounting spreadsheet or record if you must turn to the patrimony of the minor for expenses related to:

- the tutorship itself;
- the needs of the minor (within the parameters of the budget established), and this if the parents are deceased;
- an exceptional reason, even if the parents are still alive.

The use of such a record makes it easier to track the expenses incurred on behalf of the minor 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 minor'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](https://quebec.ca/minor-property-tutorship-tools).

Conserving documents

You must **keep all of the original copies of supporting documents** associated with your management of the minor'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 minor is of full age or emancipated.

2.7 Preparing the annual management report

As a tutor, the annual management report is an excellent way for you to provide information on your management of the minor'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 minor'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 minor were well protected.

As indicated by its name, this report must be prepared each year. More specifically, **it must be done within 60 days of the anniversary date of the onset of the tutorship**.

The anniversary date corresponds to the date on which the tutorship came into effect. For example, if the onset of the tutorship was on June 1st, you must submit the annual report **by no later** than August 1st of each year thereafter (namely 60 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 the minor's file will so advise you.

Completing the Annual Management Report form

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

These forms are also available at [Québec.ca/minor-property-tutorship-forms](https://quebec.ca/minor-property-tutorship-forms).

To prepare the annual administration 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 minor.

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 minor, if he is 14 years old or more;
- the tutor to the person (if this is not your role).

When sending the first annual account to the Curateur public and to the tutorship council, you must provide a copy of all supporting documents confirming the presence of all assets, debts, income and expenses in the annual management account. Supporting documents may include account and investment statements, bills, lease agreements, property titles, etc. When sending subsequent annual management reports, please include only account and investment statements.

Each year, the Curateur public may ask you to provide supporting documents during its audit. As for the tutorship council, you must continue to provide it with an updated copy of all supporting documents.

Reminder

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



Checking the annual management report

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

To that end, you must ensure that:

- the annual report lists all of the property and debts of the minor;
- 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 (sample)* available at [Québec.ca/minor-property-tutorship-tools](https://quebec.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 one's role as a tutor



A final administration report is a document that you prepare:

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

Important note for the suppletive tutor

Your role ends:

- if you ask the court to relieve you of your duties;
- when the minor turns 18;
- if the mother or father is reinstated in the role of legal tutor or as the holder of parental authority at your request, at the request of one of the parents or at the request of a minor aged 10 years or more;
- if a dative tutor is appointed.

The final administration report consists of a report of your management for the period from the date of the last annual administration report and the date on which your role ended. It also indicates the status of the patrimony of the minor 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 tutor's role. For example, if the minor 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 administration report, will be sent to you at the end of your management. This document is also available at [Québec.ca/minor-property-tutorship-forms](https://quebec.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 minor now of full age or the emancipated minor;
- to the liquidator of the succession in the event of the minor's death;
- to the new tutor if you have been replaced (a copy must also be sent to the minor if he is 14 years old or more).

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

- the Curateur public;
- the tutorship council secretary.

It could be that a minor 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 minor.



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 minor'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 minor 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 38](#) for further information on how to proceed.

If the Curateur 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 minor now of full age or emancipated minor (or the liquidator of his 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 minor's patrimony. This step is taken once the tutor has submitted the final administration report to the entities and persons concerned, namely:

- to the minor of full age or emancipated minor;
- to the liquidator of the succession, if the minor has died; or
- to 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 minor becomes of full age.

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

Handing over the property

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

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

Handing over tutorship documents

At the end 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 emancipated minor or minor now of full age;
- to the liquidator of the succession, if the minor has died;
- to the new tutor.



3. Tutorship council meetings

Managing the patrimony of a minor 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 minor and preservation of the value of his patrimony until he is of full age should guide the decisions taken in this regard.



TUTORSHIP
COUNCIL

3.1 Calling a meeting of a 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 minor.

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.

Templates of a **meeting agenda** and **minutes** are available at [Québec.ca/minor-property-tutorship-tools](https://quebec.ca/minor-property-tutorship-tools).

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

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.

3.2 Holding a meeting

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. When 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 minor'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 minor's patrimony. You could even provide the tutor with these copies, which he can then send to the Curateur public along with the annual administration report.



4. Replacing a tutor or member of the tutorship council

There may be a number of reasons for which a dative tutor can no longer carry out his duties. Likewise, a member of the tutorship council could die or decide he no longer wishes to sit on the council. What happens then?



4.1 Replacing a tutor

A tutor may ask the court to replace him in his role, provided he has a serious reason for doing so. He must at this point notify the tutorship council of his intention, in writing.

Furthermore, should a tutor fail to comply with his obligations to the minor, you must collaborate with him to help him find solutions.

Given that preserving the value of the minor'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.

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.

If the person has not been previously designated by one of the child's parents, the court will make the appointment. In that case, the person must provide a certificate of no judicial record or a judicial record list. They must also make a sworn statement declaring that they have never had a civil judgment rendered against them or, where applicable, listing the judgments against them, and specify whether they have ever declared bankruptcy.

While awaiting the decision, the tutor continues to fulfil his role as regards the minor, and this unless the court has stipulated otherwise.

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 18](#)). 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 minor'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 minor if 14 years old or more.

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 19](#)), a replacement must be found among the relatives or persons with a special interest of the minor. 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 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 minor.





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 a tutorship to the property of a minor, non-compliance refers to the tutor's failure to fulfill his legal obligations regarding the management of the minor'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 minor'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 minor 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 minor for his own personal gains and to the detriment of the minor. The latter generally suffers financial and material losses. For example, a tutor who uses the minor's patrimony for his own benefit would be practicing abuse.

5.2 Detecting cases of financial exploitation

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 minor, 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 minor'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 minor'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 minor.
- Fraudulent investments.

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



5.3 Steps to take with regard to a report

What is a report?

Filing a report is when information is transmitted to the Curateur public for the purpose of informing it 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 minors. 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 minor'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 minor'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 minor.

Available assistance

As mentioned throughout this guide, the tutorship to the property of a minor requires the involvement of numerous persons and entities (the minor, 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 minor is critical, as the goal of the tutorship is to preserve the value of his 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 the minor 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](https://Quebec.ca/curateur-public-contact-us).