

MANAGING SOMEONE ELSE'S MONEY

Tips on adapting the CFPB guides for your state

Introduction

The Consumer Financial Protection Bureau (CFPB) published four guides on *Managing Someone Else's Money* for family members and friends acting as:

- Agents under a power of attorney;
- Court-appointed guardians of property or conservators;
- Trustees under a revocable living trust; and
- Representative payees and VA fiduciaries.

See www.consumerfinance.gov/managing-someone-elses-money.

The four guides are national in scope and can be used in any state.* However, we urge states to adapt the guides to give consumers specific information about state law, practice, and resources. To facilitate this, the CFPB contracted and worked closely with the American Bar Association Commission on Law and Aging (ABA) to produce the guides and this set of replication tips and templates. It summarizes what we learned by collaborating with lawyers and other professionals to produce state-specific versions of the guides in Arizona, Florida, Georgia, Illinois, Oregon, and Virginia.

This set of tips and templates includes information about copyright, ten tips for adapting the guides, a list of topics most frequently changed in the state-specific guides, and versions of the national guides that highlight possible state changes.

We hope this replication package will empower state bar associations and other groups of lawyers, courts, state agencies, and other professionals to collaborate in producing state-specific versions of these guides.

*The guides are not intended to provide legal advice or serve as a substitute for a reader's own legal counsel.

Information on using CFPB materials

The CFPB strongly encourages state agencies or organizations within states to replicate the *Managing Someone Else's Money* guides and include information about state law and resources. The guides are works of the U.S. Government and therefore are not protected by copyright. However, the CFPB searchlight logo and the name "Consumer Financial Protection Bureau" are registered trademarks owned by the Bureau. Individuals and organizations that adapt the guides for their state may not do or include anything that gives the impression that a guide is a CFPB product or has been officially endorsed by the Bureau. This means that the final product produced by state organizations may not be designed in a manner similar to the CFPB guides; may not use the CFPB logo; and may not include any language to the effect that the CFPB produced the material, endorses the final product, or has approved of it. State organizations may only indicate that their guide was based on a separate guide produced and distributed by the CFPB.

Ten tips for adapting the *Managing Someone Else's Money* guides

1. Designate a point person

Identify someone willing to coordinate the process of adapting the national guides for lay fiduciaries to the law and practice within your state. It should be someone with the necessary legal background, as well as time, patience, and communication skills needed to oversee the professionals working on the project. It should be someone who can bring the state guides to fruition and facilitate their distribution. An eye for detail plus a strong penchant for plain language (see Tip 6) also are major assets. A tall order-but gratifying for the right person who is willing to take it on.

2. Tap key state professionals

Every state has valuable resources. Consider recruiting the help of:

- The state “legal assistance developer,” (often located in the state office on aging) whose role under the Older Americans Act is to provide state leadership in developing legal resources for older persons;
- Your state bar association entity on aging or on trusts and estates;
- State chapters of national associations of elder law attorneys or of trust and estate counsel;
- Probate or other judges with relevant experience; and
- Any other agency or organization with expertise in financial management for older or vulnerable people, and financial exploitation.

3. Design a clear process for drafting the guides

Consider the number of guides you will draft, who will draft them, and in what timeframe.

- **How many guides?** Determine if your state will produce state-specific versions of all four of the national guides. Perhaps your state already has a good, readable guide in one or more of these areas. But consider that all four—especially if they mirror the national guides in their use of almost-identical formats and topic areas—make an excellent package for distribution to financial caregivers.
- **Which professionals?** Match the guides to the legal and practice expertise at hand. Who has the strongest background in guardianship or in trust law? Are there other professionals who should be involved? You may want to pick one professional—or a team of professionals—for each fiduciary guide.
- **Establish a process.** It will be critical to maintain communication throughout the process among all of the writers, so the products have a similar tone, writing style, and readability level, and maintain the overarching framework and key headings.
- **Timeframe.** Set out a reasonable timeframe with deadlines and aim to stick to it. A project that drags on will lose its appeal and its momentum. Consider aiming for launch of the guides in conjunction with a key event such as Law Day or an Older Americans Month event in May. Make sure the professionals understand the time commitment. Professionals who worked on the six state-specific CFPB guide adaptations reported spending up to 20 or more hours on the guides. However, it may take longer depending on the specifications of your state law and practice.

4. Use the colored highlights in the national guides

The CFPB has templates, Word versions of the national guides, posted on its website at www.consumerfinance.gov/managing-someone-elses-money. The templates identify the areas in which state law and practice seem likely to differ from the generic national language. The relevant language is highlighted in yellow and also underlined. For example, terminology for guardians or conservators typically changes from state to state. But don't automatically overlook the areas that are not highlighted and underlined, as it is possible your state could have important variations.

Listed below for the four guides are the topic areas that most frequently varied in the state-specific versions.

Agents under a power of attorney

- Terminology
- When responsibilities end
- Effective date
- Gifts and loans
- Estate planning
- Compensation
- Third-party acceptance
- Signing as agent
- Co-agents
- Sharing information with family and friends
- Mandatory reporting of suspected elder financial exploitation

Court-appointed guardians of property and conservators

- Terminology
- Inventory reporting and accounting
- Gifts and loans
- Bonds
- Compensation
- Sharing information with family and friends
- Mandatory reporting of suspected elder financial exploitation

Representative payees and VA fiduciaries

- Mandatory reporting of suspected elder financial exploitation

Trustees under a revocable living trust

- Terminology
- Rules on disclosing information about the trust
- Rules for co-trustees
- Compensation
- Mandatory reporting of suspected elder financial exploitation

In all four guides, key changes also include state and local resource references.
See Tip 10.

5. Consult the state-specific CFPB guides for ideas

After the four national guides were completed, the CFPB produced state-specific adaptations of the national versions in Arizona, Florida, Georgia, Illinois, Oregon, and Virginia. These may be helpful models for adapting the national guides to your state. The Virginia guides may be found at www.consumerfinance.gov/managing-someone-elses-money and the other five sets of state guides will be available on the CFPB website as they are released.

6. Use plain writing

To steer clear of “legalese,” we consulted with a plain writing expert who helped us to write at an eighth-grade reading level. If you make significant changes to the national guides, consider engaging a plain writing expert to help you keep it simple. Whether you use such an expert or not, encourage the writers to do their best to use plain language. Here are some very basic suggestions:

- Use short sentences. Avoid complex multi-clause sentences.
- Divide text into shorter paragraphs.
- Use the active voice.

- Do not quote statutes unless a quote is the simplest and most concise way to share important information. Do not cite statutes. This is not a legal text or a law review.
- Avoid words that might not be familiar or clear to a lay audience with limited education. For example, say “money and property” instead of “assets” or “estate.” Say “handling his money and property after he dies” rather than “probating his estate.” Say “state law requires” instead of “according to statutory authority.”
- The national guides use a hypothetical person’s name throughout. This makes it more real, and also avoids having to say “the person” or “the individual” or “the incapacitated person” or “he or she.”

7. Aim for maximum uniformity among the guides

If you think it is important to “brand” the guides as a package, aim for uniformity in content and format across the products, except when they need to differ according to the subject matter. Consider keeping the same “Four Duties” of fiduciaries, and to the extent possible, the same subheads and examples across the guides. Of course, the specific language will differ in the guardianship, trustee, agent and representative payee guides as the duties and legal requirements differ.

8. Test your drafts with financial caregivers and professionals

Consider getting feedback from financial caregivers (lay fiduciaries) in your state to test whether your adaptations are clear and understandable. Have your legal team or other professionals, such as aging network staff, identify clients who are serving as financial caregivers and who may be willing to participate. Have the professionals ask the clients if they are willing to review one of the guides. Another approach is to hold a focus group of financial caregivers to discuss the drafts. Interaction in focus groups can provide a richer assessment of strengths and weaknesses. Develop questions in advance and have someone facilitate the group. Offering refreshments and incentives such as small gift cards may increase participation. Take careful notes for use in revising the drafts.

In addition to lay comments, consider asking other professionals to review each of the draft guides objectively for accuracy. Give them guidance on how to provide feedback, such as by asking them to make comments on the draft documents using the track changes feature so their input can be easily considered and incorporated.

9. Use a format that invites easy reading

Formatting is just as important as the words you use. Here are some suggestions:

- Offset the text with sufficient white space.
- Use text boxes and sidebars to add information or give examples.
- Use bullets for lists, avoiding a string of phrases that will be difficult to read.
- Use headers and subheads to give the reader a quick guide, and be sure the headers and subheads are shown in the table of contents.
- Consider whether your guides will be electronic or in hard copy or both, and how this might affect the format.
- Use large, clear type, at least 12-point font. Arial is often recommended for headings. Georgia is regarded as the best font for documents that are available online and in hard copy.
- Use simple graphics to draw the eye to the topic.
- Put web links in the “Where to go for help” section. Using some web links in the body also may be helpful in making key information accessible, especially if you plan to distribute largely or partly through electronic channels.

10. Pay close attention to the resource references

State and local resources are listed in the “Where to Go for Help” section, as well as several text boxes throughout the guides. The highlighted national templates indicate where state and local references in the text boxes may need to be changed.

The “Where to Go for Help” section is one of the most important components—and one of the most challenging. There may be resources in your state that were not included in the national guides, for example, the state office on aging and the protection and advocacy agency. Consult with key information and referral sources familiar with the resources.

Agency names, telephone numbers and web addresses change and must be painstakingly identified and checked. Try all web links to be sure they work. For electronic versions of the guides, you may need to update the links from time to time after the guides are posted. Aim to make the resource list identical for all of the guides for your state.



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