

Rule 6-501. Testing and Reporting requirements for guardians and conservators.

Intent:

To set forth the testing requirements for guardians and conservators and to establish standards and procedures for annual—inventories, reports, and accountings that guardians and conservators are required to file under the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators.

Statement of the Rule:

(1) Definitions.

(1)(A) “Accounting” means the annual accounting required by Utah Code Section 75-5-312 and Section 75-5-417 and the final accounting required by Utah Code Section 75-5-419.

(1)(B) “Interested person” means the respondent, if he or she is not a minor, the respondent’s guardian and conservator, the respondent’s spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code Section 75-5-406. If no person is an interested person as previously defined, then interested person includes at least one of the respondent’s closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code Section 75-5-207.

(1)(C) “Inventory” means the inventory required by Utah Code Section 75-5-418.

(1)(D) “Serve” means any manner of service permitted by Utah Rule of Civil Procedure 5.

(1)(E) “Protected person” means a minor or an incapacitated person for whom the court appoints a guardian or an individual—protected person for whom the court appoints a conservator.

(1)(F) “Report” means the inventory, accounting, or annual report on the status of the protected person under Utah Code Sections 75-5-209 and 75-5-312, and the final accounting under Sections 75-5-210 and 75-5-419

(1)(G) “Respondent” means a person who is alleged to be incapacitated and for whom the appointment of a guardian or conservator is sought.

(2) Exceptions.

(2)(A) Paragraph (4) does not apply to the following:

(2)(A)(i) a guardian ~~certified licensed~~ under Utah Code Section 75-5-311(1)(a);

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator ~~issued a permit licensed~~ under Utah Code Section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraph (7)(C) does not apply to the guardian of a minor if the minor's estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) Examination and private information record.

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file:

~~(3)(A)(i)~~ a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator; ~~and~~

~~(3)(A)(ii) (3)(B) Before the court enters an order of appointment, the proposed guardian or conservator must file~~ a completed and verified Private Information Record form provided by the Administrative Office of the Courts.

~~(3)(CB)~~ The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's contact information.

(4) Recordkeeping. The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records until the appointment is terminated and then deliver them to the ~~successor guardian or conservator, to the~~ protected person, if there is no successor ~~guardian or conservator, to the~~ successor guardian or conservator, or to the personal representative of the protected person's estate.

~~(5) Report forms. Subject to the requirements of Paragraph (6):~~

~~(5)(A) forms substantially conforming to the Judicial Council approved forms are acceptable~~

for content and format;

(5)(B) a corporate fiduciary may file its internal report or accounting; and

(5)(C) if the protected person's estate is limited to a federal or state program requiring an annual accounting, the fiduciary may file a copy of that accounting.

(56) Information required in reports, Filing and service of required reports and proposed Order on Review cover sheet, and service.

(5)(A) The guardian or conservator shall file with the court the reports required by Paragraphs 6, 7, 8, 9, and/or 10 using the appropriate ~~Judicial~~ Council-approved form or a form that substantially conforms to the format and content of the ~~Judicial~~ Council form.

(5)(A)(i) A corporate fiduciary shall **attach** its internal report or accounting, if any, as an exhibit to the ~~Judicial-Council~~ form.

(5)(A)(ii) If the protected person's estate is limited to a federal or state program requiring an annual accounting, the **guardian** may file a copy of that accounting **instead of the** ~~Judicial-Council~~ form.

~~(56)(A)(B)~~ The annual **status** report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period. ~~Compliance with Paragraph (54) is presumed sufficient, but the court may direct that a report or accounting be prepared with content and format as it deems necessary.~~

~~(56)(B)(C)~~ Along with the required report, the guardian or conservator shall also file the ~~Judicial-Council-approved Order on Review of Guardian or Conservator Report ("Order on Review")~~ The annual report and annual accounting must include the ~~Judicial-Council-approved Order on Review of Guardian or Conservator Report ("Order on Review")~~, which ~~must be filed~~ as a proposed document.

~~(56)(C)(D)~~ The guardian, **or** conservator, ~~or both~~ must serve a copy of the **required** report, inventory, and accounting under Rule 5 of the Utah Rules of Civil Procedure on all interested persons **in accordance with Rule 5 of the Utah Rules of Civil Procedure**. The **required annual** report ~~and annual accounting~~ must include the following language at the top right corner of the first page, in bold type: **You have the right to object to ~~the this~~ report ~~or~~ accounting within 28 days of service. If you do not object within that time, your objection may be waived.**

(68) Inventory.

~~(68)~~(A) Within 90 days after the appointment, the conservator must file with the appointing

court the inventory required by Utah Code Section 75-5-418 in accordance with Paragraph 5. The inventory must be in substantially the same form as the inventory form approved by the ~~Utah Judicial~~ Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

~~(6)8~~(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it by signing the Order on Review.

~~(6)(C) If there is no conservator, the guardian must file the inventory required of a conservator under Utah Code Section 75-5-312.~~

(7) Annual status reports.

(7)(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment. ~~in accordance with Paragraph 5.~~

(7)(A)(i) The status report must be in substantially the same form as the status report form approved by the ~~Utah Judicial~~ Council, including the required attachments.

(7)(A)(ii) The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code Section 75-5-313.

(7)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

(7)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it by signing the Order on Review.

~~(7)(C) If there is no conservator, the guardian must file the inventory and accounting required of a conservator under Utah Code Section 75-5-312.~~

~~(8)9~~ Annual accounting.

~~(8)9~~(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment in accordance with Paragraph 5.

(8)(A)(i) The accounting must be in substantially the same form as the accounting form approved by the ~~Utah Judicial~~ Council, including the required attachments.

(8)(A)(ii) The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code Section 75-5-

403.

(8)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(89)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it by signing the Order on Review.

(8)(C) If there is no conservator, the guardian must file the accounting required of a conservator under Utah Code Section 75-5-312.

(940) **Final accounting.**

(940)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment in accordance with Paragraph 5.

(940)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it by signing the Order on Review.

(104) **Objections.**

(104)(A) If an interested person objects to a report ~~or accounting~~, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report ~~or accounting~~. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit in the court record.

(104)(B) The objection must specify in writing the entries to which the person objects and state the reasons for the objection.

(104)(C) An objection to a report ~~or accounting~~ may not contain a request to remove or substitute the guardian or conservator. Any request for removal or substitution of the guardian or conservator must be filed as a separate petition consistent with Utah Code Section 75-5-307 or 75-5-415.

(104)(D) If an objection is filed, the court must conduct a hearing unless the court determines that a hearing is not necessary. If the court determines that a hearing is not necessary, the court must issue a minute entry or order stating why a hearing is not necessary.

(104)(E) At the hearing, the court may require the guardian or conservator to supplement or amend the report ~~or accounting~~ if the court determines there is good cause for the objection.

(104)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court may deny the objection and approve the report ~~or accounting~~.

(112) **Waiver.** If an interested person does not object to a report ~~or accounting~~ within 28 days of service, the interested person waives any objection unless:

(112)(A) the objection relates to matters not fairly disclosed by the report ~~or accounting~~; or

(112)(B) the time for objection is extended by the court under Rule 6 of the Utah Rules of Civil Procedure. If the request for an extension is made before the time has run, the court may extend the time for good cause. If the request is made after the time has run, the court may extend for excusable neglect.

(123) **Report approval.**

(123)(A) **Approval.** The court must examine and approve ~~reports the report~~ as required by Utah Code sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the court's knowledge notice has been given to every person entitled to notice, no objection has been received, the report meets the requirements set forth by the report form, and the court has not requested additional information or scheduled a hearing. Such approval does not foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an appeal time.

(123)(B) **Notice to interested persons.** When a court approves a report, the court ~~must note that approval on the Judicial Council approved~~ must sign and enter the Order on Review ~~and place the Order on Review in the case file~~. When a court does not approve a report, the court must indicate on the Order on Review, or in an other minute entry or order, the reasons for non-approval, any additional actions required, and serve ~~the Order on Review or order it~~ on all interested persons entitled to notice.

(134) **Report on a minor.** Under Utah Code Section 75-5-209, a person interested in the welfare of a minor may petition the court for a report from the guardian on the minor's welfare or the minor's estate. If the court orders a status report from the guardian, the status report must be in substantially the same form as the status report form for guardianships of adults approved by the ~~Utah Judicial~~ Council, including the required attachments.

Effective November 1, 2023²