

YORK COUNTY RULES OF ORPHANS' COURT PROCEDURE
Including Amendments Adopted Through July 1, 2022

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**CHAPTER I
PRELIMINARY RULES**

Rule. 1.1 Short Title and Citation

These Rules shall be known as the "York County Orphans' Court Rules" and shall be cited as "York O.C. Rule. ___"

Rule 1.6.1 Mediation

All interested parties in a matter may use mediation to resolve issues pending before the Court, and upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

(A) The interested parties may engage the services of a mediator, either prior to, or after, any party in interest has filed a Pleading before the Court, including an Account filed by a fiduciary for audit.

(B) All interested parties in a matter docketed before the Court may file a motion to engage in mediation at any time during the pendency of the matter.

(C) The motion for mediation shall identify:

(1) The proposed mediator and the proposed source of payment of fees and costs of the mediator;

(2) Names and contact information of all interested parties and any counsel who shall participate in the mediation;

(3) Names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and

(4) The scheduled date for the initial mediation conference, if known in advance. Such mediation shall take place within 90 days of the request being made to the Court, unless extended by order of Court upon motion of any interested party.

(D) All interested parties shall keep matters discussed in mediation confidential.

(E) Mediation shall not delay the required filing of any Pleading or ordered return dates, or the scheduling of Court Hearings, unless specifically requested by interested parties and so ordered by the Court.

(F) Within 20 days of completing mediation, all interested parties, or their counsel, where appropriate, shall sign a memorandum of principal terms, which either

shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, together with a petition to approve any agreement reached by the parties shall be filed with the Clerk of the Orphans' Court and a copy served on the presiding judge.

(G) In no event shall the terms agreed upon depart from, or violate, any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L. 1125, No. 169 (35 P. S. § § 10225.101 – 10225.5102), as may be amended.

Rule 1.7.1 Entry and Withdrawal of Counsel

(A) Reserved.

(B) Withdrawal with Leave of Court:

(1) Preferred Motion Procedure: An attorney who has given at least 20 days' notice to the client and all other parties of intent to file a motion to withdraw, and who has received no opposition to such motion, may file a Motion, as follows:

(i) State that prior notice of intent to withdraw has been given to the client and all parties, the date on which such notice was given, the last known address of the client where the notice was sent, a copy of said notice, and the last known telephone number of the client.

(ii) State all proceedings that are pending, if any, the nature of the pending proceedings, and the next date of any court proceeding.

(iii) State that the attorney has sent to the client all court orders which require any action to be taken by the client.

(2) Alternate Petition Procedure: A Petition requesting leave to withdraw an appearance shall:

(i) State whether any court proceeding is pending, the nature of the pending proceeding, and the next court date of any proceeding;

(ii) State that the attorney has sent to the client all prior court orders, if any, which require the client to take any action;

(iii) Certify that the attorney served the client with all previous court orders, if any, which require the client to file documents, attend proceedings, or take any other action; and

(iv) Include the last known address and telephone number of the client in both the proposed Preliminary Decree for Rule to Show Cause and a proposed final Order permitting withdrawal.

Rule 1.9.1. Reserved

Rule 1.10.1. Sureties

(A) Individual Sureties. Individuals proposed as sureties on bonds of fiduciaries shall make an affidavit to the Clerk, setting forth such information as the Clerk shall require. Each affidavit shall be filed together with its respective bond and shall be renewed annually thereafter so long as the bond shall remain in effect. No member of the bar or any employee of this Court shall act as surety in any proceeding in this court, except by special leave of court.

(B) Corporate Sureties. Any corporate surety allowed to do business in Pennsylvania may act as surety, providing that a current certificate evidencing approval by the Insurance Department of the Commonwealth of Pennsylvania, together with a designation of attorney in fact, is on file with the clerk.

**CHAPTER III
PETITION PRACTICE AND PLEADING**

Rule 3.4.1 Form of Petition; Exhibits; Consents; Signing and Verification

(A) Reserved.

(B) Reserved.

(C) Exhibits Related to *inter vivos* trusts. When the court is required to exercise its jurisdiction over an *inter vivos* trust, the original trust instrument, all amendments, restatements, and revocations, or copies certified to be true and correct, shall be lodged with the Clerk, who shall scan or otherwise record electronically and then return to the filer, whom the Clerk shall name on the docket.

CHAPTER V
RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Rule 5.6.1. Compromise or Settlement of Action Involving a Minor

(A) No action to which a minor is a party shall be compromised, settled, or discontinued, except with court approval, pursuant to a petition, presented by the guardian of the minor and a hearing before the court.

(B) The petition shall contain the following:

(1) The initials of the minor's name and reference to the Confidential Information Form (CIF);

(2) The names and addresses of the minor's parents.

(3) Written approval of the minor if the minor is over the age of 16 years;

(4) Whether a guardian has been appointed for the minor by the Orphans' Court of this, or any other, jurisdiction;

(5) The Respondent's residence or place of business;

(6) A summary of the facts of the case;

(7) An Affidavit of the parents and/or guardians, certifying the physical condition of the minor and the reasons why the parents and/or guardians approve of the settlement;

(8) A report from a physician, or other documentation, stating the physical and/or mental condition of the minor and a prognosis;

(9) A specific list of costs sought to be reimbursed from the gross settlement;

(10) A statement of the reasonableness of counsel fees, which must be based upon the settlement amount, presuming 25% of the settlement amount to be reasonable, which presumption is rebuttable at the hearing. Counsel fees shall be reduced by fees received, if any, if counsel also represented the Respondent(s) in a subrogated claim;

(11) Whether any additional counsel fees were paid or will be paid as a result of representing the Respondent(s) and subrogation claims;

(12) Sufficient reasons and legal authority for any request that funds be allocated to the parents of a deceased minor, if applicable;

(13) Sufficient reasons for any request to allocate settlement proceeds among children of a deceased minor, if applicable;

(14) A statement of any actual or potential lien of the Department of Human Services and how such liens have been resolved; and

(15) Any special request for early distribution, alternative deposit of funds, or other deviation from the order as set forth in York O.C. Rule 5.6.1 shall be stated in the Petition with supporting justification for the special request. Counsel shall be prepared to address the necessity for the special request at the time of the hearing.

(C) At the time of the hearing, counsel for Petitioner shall present a proposed Order substantially in the form set forth hereinbelow.

(D) Within 14 days of receipt of settlement proceeds, counsel for Petitioner shall cause the funds belonging to the minor to be deposited as directed by the court's order approving the compromise and settlement and directing distribution.

(E) Within 14 days of depositing the funds belonging to the minor, counsel for petitioner shall file proof of deposit by way of an affidavit substantially in the form set forth hereinbelow.

Form: Order Scheduling Hearing.

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

In re: Estate of _____, a Minor : No. 67-
(Initials only, use CIF for full name) :

ORDER SCHEDULING A HEARING
ON THE COMPROMISE OR SETTLEMENT OF
AN ACTION IN WHICH A MINOR IS A PARTY

AND NOW, this ____ day of _____ 20__, a hearing on the
Petition is hereby scheduled before the undersigned Judge on the ____ day of _____,
20____, beginning at _____ . m. In Courtroom No. ____, on the ___th Floor,
York County Judicial Center, 45 North George Street, York, PA 17401.

The Petition does/does not comply with the requirements of York O.C. Rule
5.6.1, and, if not, then, the Petitioner shall establish those requirements at the hearing.

At the time of the hearing, counsel for the Petitioner shall present a proposed
Order approving settlement substantially in the form as set forth in York O.C. Rule 5.6.1.

Notice of the entry of this Order shall be provided to all parties by the Clerk of the
Orphans' Court in accordance with Pa. O.C. Rule 4.6.

BY THE COURT,

Judge

Form: Order Approving Compromise

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

In re: Estate of _____, a Minor : No. 67-
(Initials only, use CIF for full name) :

ORDER APPROVING
COMPROMISE, SETTLEMENT AND DISTRIBUTION

AND NOW, this _____ day of _____ 20__, upon consideration of the Petition For Leave To Compromise/Settle An Action Involving A Minor, it is hereby ORDERED that the Petition is GRANTED and

1. Petitioner is authorized to enter into a settlement with the Respondent in a gross amount of \$_____ on behalf of the minor.
2. Respondent shall forward all settlement drafts or checks to Petitioner's counsel for proper distribution.
3. The settlement proceeds shall be allocated as follows:
 - a. To: _____, (Minor's Initials), a Minor \$_____
 - b. To: _____, (Minor's Initials), a Minor \$_____
4. IT IS FURTHER ORDERED that the settlement proceeds be distributed as follows:
 - a. To: _____, Esquire (Name of Counsel)

Costs	\$_____
Counsel Fees	\$_____
 - b. The balance of the settlement proceeds, the sum of \$_____ as follows:
 1. _____
 2. _____

and any interest thereon, payable to the minor, or minors in a pro-rata share as set forth above.

5. Within 14 days of receipt of the settlement proceeds, COUNSEL, and not the parent(s) or guardian(s) of the minor, is hereby authorized and specifically DIRECTED to execute all documentation necessary to deposit the funds belonging to the minor into an interest-bearing savings account or savings certificate in a federally insured financial institution having an office in York County, IN THE NAME OF THE MINOR ONLY. The savings account or certificate shall be marked as hereinafter directed.
6. The savings account shall be titled and restricted as follows:

(Minor's Name), a minor, not to be withdrawn before minor attains majority or upon prior Order of Court.
7. The savings certificate shall be titled and restricted as follows:

(Minor's Name), a minor, not to be redeemed except for renewal in its entirety, nor to be withdrawn, assigned, negotiated, or otherwise alienated before the minor attains majority, except upon prior Order of Court.
8. If no withdrawals are made from the investments authorized by this Order, the depository may pay over the balance on deposit when the minor attains majority, as defined with reference to 20 Pa.C.S.A. § 102, upon the order of the late minor, without further Order of this Court.
9. Counsel shall file with the Clerk of the Orphans Court of York County, Pennsylvania, within 14 days from the date of deposit of the funds, proof of the establishment of the accounts as required herein, by Affidavit from counsel certifying compliance with this Order.
 - a. Counsel shall attach to the Affidavit a copy of this Order as well as a copy of the Certificate of Deposit or bank account showing the amount deposited and containing the required restrictions.
 - b. The Affidavit shall further contain a specific averment by counsel that counsel, and not the parent(s) and/or guardian(s) of the minor, established the account(s) and deposited the funds therein as directed above and that counsel has provided to the financial institution a certified copy of this Order.

c. The Affidavit shall be substantially in the form as set forth in hereinbelow.

10. Notice of the entry of this Order shall be provided to all parties by the Clerk of the Orphans' Court in accordance with Pa. O.C. Rule 4.6.

BY THE COURT,

Judge

Form: Affidavit of Deposit

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

Estate of _____ :
_____, a minor : No. 67
(Initials only, use CIF form) :

AFFIDAVIT OF DEPOSIT OF MINOR'S FUNDS

COMMONWEALTH OF PENNSYLVANIA :
 : SS
COUNTY OF YORK :

I, _____, being duly sworn according to law, depose and say:

1. I am counsel for petitioner in the above captioned matter.
2. I am authorized to make this affidavit on behalf of _____.
3. On _____, 202_, the sum of \$_____ was deposited into an insured, interest-bearing Savings Account / Certificate of Deposit, No. _____ (last 4 digits only, use CIF Form) with _____ (Name of Financial Institution) pursuant to the Court Order entered on _____, 202_.
4. Account / Certificate No. _____ (last 4 digits only, Use CIF Form) is entitled, _____ (initials only), a Minor.
5. The express prohibition of withdrawals of income or principal prior to _____ without FURTHER ORDER OF COURT has been noted on the depository's records and on the passbook/certificate.
6. A certified copy of the above referenced Court Order was provided to the above-named financial institution.

Name (printed): _____

Signature: _____

Sworn to and subscribed before me
this ____ day of _____, 202_.

Notary Public

Rule 5.10.1 Public Sale of Real Property

(A) Public Sale by Decedent's Personal Representative. A petition by a decedent's personal representative to sell real property at public sale shall set forth:

- (1) How title was acquired and reference to the document of acquisition;
- (2) The name, residence, and date of death of the decedent, whether the decedent died intestate or testate, and the date of the grant of letters;
- (3) That the personal representative is not otherwise authorized to sell or is denied the power to sell by will, or that it is desirable that the sale have the effect of a judicial sale, and state the reasons therefor;
- (4) If an inventory has been filed, the value of the real property shown in the inventory or, if no inventory has been filed, the value of the property based upon an independent appraisal;
- (5) If the personal representative entered bond with the Register, the name of the surety and the amount of the bond;
- (6) The names and relationships of all parties in interest; a brief description of their interests; whether any of them is a minor, an incapacitated person, or a decedent, and if so, the name of any fiduciary and a reference to the record of his or her appointment as well as the age of any minor and the names of his or her next of kin;
- (7) A legal description of the real property to be sold, the improvements thereof, by whom it is occupied, its rental value, if known, and its current tax assessment and tax parcel number; and
- (8) Sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(B) Public Sale by Trustee. A petition by trustee to sell real property at public sale shall conform insofar as appropriate to the requirements for a petition under York O.C. Rule 5.10.1 and shall set forth:

- (1) A reference to the relevant provisions of the controlling instrument;
- (2) That the trustee is not otherwise authorized to sell or is denied the power to sell by the trust provisions, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons therefor; and
- (3) Sufficient facts to enable the Court to determine that the sale is in the best interests of the trust and its beneficiaries.

(C) Public Sale by Guardian. A petition by a guardian to sell real property at public sale shall conform insofar as appropriate to the requirements for a petition under York O.C. Rule 5.10.1 and shall set forth:

- (1) The age of the minor or the date of adjudication of incapacity;
- (2) The names of the next of kin of the minor or incapacitated person, and the notice given to them of the presentation of the petition;
- (3) The nature and the extent of the interests of the minor or incapacitated person and of any others in the real property; and
- (4) Sufficient facts to enable the Court to determine that the sale is in the best interests of the minor or the incapacitated person.

(D) Exhibits to Petition. The following exhibits shall be attached to a petition by a personal representative, trustee or guardian, to sell property at public sale:

- (1) A copy of the will, trust, or decree by which the fiduciary was appointed;
- (2) All consents or joinders of parties in interest, and the names of, and a copy of the notice which has been given to, those parties who do not consent or join; and
- (3) Consent by any mortgagee whose lien would otherwise not be discharged by the sale.

(E) Notice and Confirmation of Public Sale: Additional Security. After allowance of the petition, notice of the date, time, and place of the sale shall be given to all parties in interest.

(F) Affidavit of Return. Returns of public sale of real property for the purpose of approval or confirmation by the Court shall be by affidavit setting forth:

- (1) The notice given;
- (2) The price obtained; and
- (3) The name and address of the purchaser, and an averment that the purchaser was the highest bidder.

(G) Notice. Notice of the filing of the return of the public sale shall be given to all parties in interest. If no objections are filed within 10 days of the giving of the notice, the Court may enter a decree confirming the sale and fixing or excusing the entering of additional security, if required.

Rule 5.11.1 Private Sale of Real Property

(A) A petition for the private sale or exchange of real property at a private sale or for the exchange or granting of an option for the sale or exchange of real property shall conform insofar as appropriate to the requirements of a petition under York O.C. Rule 5.10.1.

(B) Exhibits to Petition. In addition to the exhibits required under York O.C. Rule 5.10.1 and the affidavits required by that Rule, there shall be attached to the petition the following exhibits:

- (1) A copy of the proposed agreement of sale, exchange or option; and
- (2) The consents of any party in interest who has not joined in the petition insofar as they are obtained.

(C) Notice; Confirmation. After filing the Petition, Notice of the sale shall be given to any party in interest who has not joined in or consented to the petition. The notice shall state that if no objections are filed within 10 days of the giving of such notice, the Court may enter a decree authorizing the sale upon the terms contained in the petition and fixing or excusing the entering of additional security, if required.

CHAPTER VII RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

Rule 7.5.1 Pre-Hearing Conferences

(A) In any action the court, of its own motion or on motion of any party, may direct the attorneys for the parties to appear for a conference to consider:

- (1) Concise statement of the issues
- (2) Requested amendments to the pleadings
- (3) Objections to discovery
- (4) Admissions to be made part of the record
- (5) Witnesses by name and address
- (6) Stipulations
- (7) Exhibits, pre-marked
- (8) Special Requests

(9) Estimated time needed for trial

(10) Last Settlement offer

(B) The court may make an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys.

(C) Such order, when entered, shall control the subsequent course of the action, unless modified at the trial to prevent manifest injustice.

CHAPTER IX AUDITORS AND MASTERS/ HEARING OFFICERS

NOTE: State Rules in this Chapter refer to the statutory term, "Master," see, 20 Pa.C.S. § 751 *et seq.*, which, in these Local Rules shall be referred to as "Hearing Officer."

Rule 9.1.1 Notice of Hearings

(A) The Court shall appoint the Hearing Officer or Auditor in a Preliminary Decree that states the following:

(1) The issues of fact to be investigated.

(2) The names and addresses of persons whom the Hearing Officer or Auditor is to serve Notice of the Hearing.

(3) The manner of service of the Notice of the Hearing.

(4) The requirement that a Court Reporter transcribe the Hearing.

(5) The requirement that the Clerk administer oaths and record admission of exhibits.

(6) The date, time, and place of the Hearing.

(B) The Court shall state if the alleged incapacitated person is excused from the Hearing, in accordance with 20 Pa.C.S. § 5511(a).

(C) The Court shall appoint counsel for the alleged incapacitated person, if necessary, and state when said appointment shall terminate to avoid having counsel file a Petition for Withdrawal in accordance with Pa. O.C. Rule 1.7 and

York O.C. Rule 1.7.1.

Rule 9.6.1 Notice of Filing Report

(A) The Hearing Officer or Auditor shall serve Notice of filing the Report of Hearing.

(B) The Report of Hearing shall state the Findings of Fact, Conclusions of Law, and Recommendations to the Court.

(C) In matters involving the alleged Incapacity of an Individual, the Report of Hearing shall:

(1) State the nature of the condition or disability that impairs the individual's capacity to make and communicate decisions.

(2) State the extent of the individual's capacity to make and communicate decisions.

(3) State the need for guardianship services in light of the:

(i) Availability of family, friends, and support mechanisms.

(ii) Existence and effectiveness of a durable financial power of attorney.

(iii) Existence and effectiveness of health care power of attorney.

(iv) Individual's current and recommended residence.

(v) Individual's current and recommended health care.

(vi) Individual's assets and ability to spend them reasonably.

(4) Recommend the type of guardian, limited or plenary, and, if it were limited, the limitation and the likely effectiveness of such limit in practice.

(5) The duration of guardianship.

(D) The Notice of Filing Report shall:

(1) State that all Objections to the Report shall be filed with the Clerk of the Orphans' Court within 10 days of the entry of the Report upon the docket and

(2) State that, if there were no Objection, then the Court may deem that

the parties agreed with the Hearing Officer's or Auditor's Findings of Fact, Conclusions of Law, and Recommendations to the Court.

Rule 9.7.1 Confirmation of Report:

If Objection were not filed within 10 days of the entry of the Report, or if Objection were filed and overruled, then, the Court shall enter an Order and may confirm and adopt the Hearing Officer's or Auditor's Report as a Final Order and Decree.

**CHAPTER XIV
GUARDIANSHIPS OF INCAPACITATED PERSONS**

Rule 14.2.1 Notice and Service

(A) Notice in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person is required on all persons who are sui juris and are heirs of the alleged or adjudicated incapacitated person, as defined by the intestacy laws of Pennsylvania. Such notice is required even if the person does not reside within the Commonwealth of Pennsylvania.

(B) Notice required in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person, other than notice upon the alleged or adjudicated incapacitated person, shall be by personal service, by service in such manner as the court directs and/or as directed by statute in that particular case, or may be made by first-class mail, postage prepaid, to the known or last known address. In the latter case, a certificate of service shall be prepared and filed verifying that the address used is the proper known or last known address, and attaching a postal certificate of mailing.

(C) The petition shall include a notice and citation, substantially in the form prescribed by York O.C. Rule 14.5.1. Petitioner shall be responsible for obtaining a completed notice and citation from the clerk of the orphans' court, and petitioner shall be responsible for proper service of the petition, notice and citation. In all cases, service of the petition, notice and citation shall be made upon the alleged or adjudicated incapacitated person by personal service by the sheriff or by any other competent adult, and the person making such service shall read to the alleged or adjudicated incapacitated person the petition, notice and citation, and then for a second time the notice and citation. The person making service shall explain the contents to the extent possible. When the alleged incapacitated person is institutionalized, service of the citation shall also be made upon the superintendent or other officer of the institution having custody of said incapacitated person.

(D) Petitioner is responsible for filing a return of service conforming to Pa. R.C.P. 405, which also confirms that the contents of the notice and citation and of the petition were read and, to the extent possible, explained, to the respondent as set forth in paragraph (C) above.

Rule. 14.2.2 Miscellaneous

(A) The petition shall comply with the requirements of PEF Code §5511(e), as well as with the Supreme Court Orphans' Court Rules.

(B) Language used in the petition should be easily understood. It is recommended that an affidavit of a physician or clinical psychologist be attached which contains a description of the physical and mental condition, any functional limitations and whether or not the respondent would be harmed by attendance at the proceeding to determine capacity.

Rule. 14.2.3 Written Consent

(A) If the proposed guardian is an individual, the written consent of the proposed guardian shall include:

- (1) the place of residence of the proposed guardian;
- (2) the occupation of the proposed guardian;
- (3) a statement that the proposed guardian speaks, reads and writes the English language;
- (4) a statement that the proposed guardian does not have any interest adverse to the alleged incapacitated person; and
- (5) a statement that the proposed guardian is not a fiduciary, or an officer or employee of a corporate fiduciary, of an estate in which the alleged incapacitated person has an interest, and is not the surety, or an officer or employee of a corporate surety of such a fiduciary.

(B) If the proposed guardian is a corporate guardian, the written consent of the proposed guardian shall contain a statement that it is not the fiduciary of an estate in which the alleged incapacitated person has an interest, nor the surety of such a fiduciary, and that the proposed guardian does not have any adverse interests to the alleged incapacitated person.

Rule. 14.2.4 Inventory

Every guardian shall be required to file an inventory in the office of the clerk in accordance with the provision of the PEF Code §5521 (relating to provisions concerning powers, duties and liabilities) and PEF Code §5142 (relating to inventory).

Rule. 14.2.5 Special Petitions for Allowance

(A) A petition for an allowance from an incapacitated person's estate or for payment of counsel fees, shall set forth:

(1) the name of the guardian and date of appointment, or, if the petition is not the guardian, the petitioner's relationship to the incapacitated person or the nature of the petitioner's interest;

(2) a summary of the inventory, the date it was filed and the nature and present value of the estate and its income;

(3) the address and occupation, if any, of the incapacitated person;

(4) the names and addresses of the incapacitated person's dependents, if any;

(5) a statement of all claims of the incapacitated person's creditors known to petitioner;

(6) a statement of all previous distribution allowed by the Court; and

(7) a statement of the requested distribution and the reasons therefor.

(B) If any portion of the incapacitated person's estate is received from the United States Veterans' Administration, notice of the request for allowance shall be given that agency.

Rule. 14.2.6 Status Reports of Guardian of Person

(A) Within one (1) year of the date of appointment and annually thereafter, or with such greater frequency as the court may direct, every guardian of the person of an incapacitated person shall file a periodic report of the guardian of the person in substantially the form available in the office of the clerk. Notice and service of the said report shall be in such manner as the court shall direct.

(B) Notice of filing shall be made to such person and in such manner as the court shall direct.

Rule. 14.2.7 Status Reports of Guardian of Estate

(A) At least seven (7) days prior to the date established for hearing on the petition, petitioner shall file in duplicate a status report on legal representation in substantially the form available in the office of the clerk, each of which should have attached, under the proper caption, the appropriate order in substantially the form available in the office of the clerk.

(B) Within one (1) year of the date of appointment and annually thereafter, or with such great frequency as the court may direct, every guardian of the estate of an incapacitated person shall file a periodic report of the guardian of the estate in substantially the form available in the office of the clerk. Notice and service of the said report shall be in such manner as the court shall direct.

Rule. 14.3.1 Notice

The petitioner shall give notice of the hearing to the guardian if he is not the petitioner and to the next of kin of the incapacitated person. At the hearing on the petition, proof of service of the notice and petition shall be submitted to the court.

Rule. 14.3.2 Final Decree

In entering its decree, the court may direct the guardian to file an account. (See PEF Code § 5517.)

CHAPTER XV ADOPTIONS

(These rules are in effect until July 1, 2022)

Rule. 15.1.1 General Practice and Procedure

All reports and petitions relating to adoption shall be filed with the clerk and shall be in such form as is designated from time to time by the court. The court may publish special filing instructions and procedures on the county website maintained by the clerk. All filing fees shall be paid at the time of filing.

Rule. 15.1.2 Additional Contents of Filings in Adoption Matters

(A) Telephone Number. Every petition for adoption shall include in the body of the petition or by separate attachment, personal telephone number(s) by which the court-appointed investigator may contact the petitioners to schedule the in-home investigation.

(B) Form of Certain Filings. Every report of intention to adopt and petition for adoption filed of record shall be typewritten and shall contain the caption of the case, the nature of the proceeding, the file number, and either the signature of the attorney, below which shall be the attorney's name, address, telephone number and attorney identification number, or the signature of the party, below which shall be the party's name, address, and telephone number.

(C) Background Reports and Clearances.

(1) Required Reports and Clearances. All petitioners seeking to adopt shall submit to the court prior to or at the time of filing a petition for adoption each of the following documents, which shall be executed within one (1) year of filing the petition for adoption:

(a) Report of criminal history record information from the Pennsylvania State Police;

(b) Pennsylvania child abuse clearance certificate from the Department of Public Welfare; and

(c) Report of federal criminal history record information if a petitioner is required to file a report of intention to adopt.

(2) Residence Outside of Commonwealth. The information required in paragraphs (C)(1)(a) and (C)(1)(b) is also required from each state where every petitioner seeking to adopt has resided in the five (5) years preceding the filing of the petition for adoption.

(3) Adult Household Residents. The information required in paragraphs (C)(1) and (C)(2) is also required of every individual over eighteen (18) years of age who resides within the household of petitioners.

(4) Exception. A parent of the adoptee, by birth or previous adoption, who has joined a petition for adoption or executed a consent to the proposed adoption pursuant to 23 Pa.C.S. §2711 shall not be required to comply with paragraphs (C)(1) and (C)(2) of this rule.

Note: the background reports and clearance required by this rule are referenced in 23 Pa.C.S. §6344.

Rule. 15.4.1 Claims or Acknowledgments of Paternity

In every proceeding brought to terminate any parental rights as to an adoptee born in Pennsylvania, petitioners shall obtain and provide to the court at the time of the hearing thereon official documentation obtained from the Pennsylvania Department of Public or a Domestic Relations Office in Pennsylvania stating whether any paternity claims or acknowledgements have been filed with the Department in accordance with 23 Pa.C.S. §5103(b) as to each adoptee as to whom termination of parental rights is sought.

Rule. 15.5.1 Notice in Adoption Proceedings

(A) General Rule. Notice of any hearing related to an adoption shall be given in strict conformity with the Adoption Act, 23 Pa.C.S. §§ 2301 et seq., and the Orphans' Court Rules of this Commonwealth and this county.

(B) Specific Circumstances and Exceptions.

(1) Adult Adoptee. If an adoptee is eighteen (18) years of age or older, a separate petition to waive notice of the hearing(s) to any parent of the adoptee may be filed by the prospective adoptive parent(s).

(2) Notice by Publication. If a person to be notified is not represented by legal counsel, cannot be personally served with notice, and cannot be served by mail because his or her residence is not known, a separate petition seeking authority to provide notice by publication may be filed by the prospective adoptive parent(s). Facts supporting the petition that cannot be verified by the petitioner(s) shall be stated in an affidavit accompanying the petition. If the petition is granted, notice by publication shall comply with York O.C. Rule 5.1.1 and be given at least once a week during three successive calendar weeks in a newspaper of general circulation published at or near the last known address of the person to be notified and also in the legal periodical, if any, in that county.

(3) Identity of Person to be Notified Unknown. If, after reasonable investigation, the identity of a person to be notified is unknown, a separate petition to waive notice to that person may be filed by the prospective adoptive parents(s). The petition shall set forth all information known relating to the identity or possible whereabouts of the person to be notified and what reasonable investigation was undertaken to identify that individual. Facts supporting the petition that cannot be verified by the petitioner(s) shall be stated in an affidavit accompanying the petition.

(4) Verification and Proposed Order. Each petition allowed by section (B) of this rule shall be accompanied by a verification and a proposed court order.

Rule. 15.5.2 Adult Adoptee Name Change - Alternative Procedure

(A) Application for Change of Name as Exhibit to Petition for Adoption. In lieu of filing a separate petition for change of name with the prothonotary required by York R.C.P. 5730, petitioners seeking to adopt and requesting a change of an adult adoptee's name may instead initiate a change of name proceeding for an adult adoptee by attaching as an exhibit to their petition for adoption, an application for change of name in conformity with 54 Pa.C.S § 701(a.1)(2). Attached to the application for change of name shall be a fingerprint card completed by the adult adoptee and a verification form signed by the adult adoptee and petitioners. The application for change of name shall be filed with the clerk of the orphans' court and does not have to comply with the requirements in York R.C.P. 205.2 as stated in York R.C.P. 5703(a)(1).

(B) Evidence of Notice. Petitioners seeking to adopt and requesting a change of an adult adoptee's name pursuant to the alternative procedure in this rule shall comply with the requirements in York R.C.P. 5730(b) and (c)(1).

(C) Evidence of Official Searches. Petitioners seeking to adopt and requesting a change of an adult adoptee's name pursuant to the alternative procedure in this rule shall comply with the requirements in York R.C.P. 5730(c)(2).

(These new rules replace the preceding Chapter 15 rules in their entirety, effective July 1, 2022)

Rule 15.1 General Practice and Procedure

(a) All reports and petitions relating to adoption shall be filed with the clerk of the Orphans' Court. All filing fees shall be paid at the time of filing.

(b) Every petition for adoption shall include in the body of the petition or by separate attachment, valid contact information, email address, personal telephone number(s) by which the court-appointed investigator may contact the petitioners to schedule the in-home investigation. Every pleading filed of record shall be typewritten and shall contain the caption of the case, the nature of the proceeding, the file number, and either the signature of the attorney, below which shall be the attorney's name, address, telephone number, email address and attorney identification number, or the signature of the party, below which shall be the party's name, address, and telephone number and email address.

Rule 15.3 Certifications

(c) Acknowledgement of Paternity. In every proceeding brought to terminate any parental rights as to a child born in the Commonwealth of Pennsylvania, petition shall obtain and provide to the Court at the time of the hearing thereon official certificate obtained from the Pennsylvania Department of Human Services identifying any paternity acknowledgements or paternity claims on file with the Department in accordance with 23 Pa. C.S. § 5103(b) as to each such child as to whom termination of parental rights is sought. A certification of acknowledgement of Paternity can also be obtained from York County Domestic Relations Section.

Rule 15.10 Involuntary Termination of Parental Rights

(d) (3) Minor Parent. When the termination of the parental rights of a parent who has not attained the age of 18 years is sought, unless the Court finds the parent is already adequately represented, the Court shall appoint an attorney to represent the parent regardless of financial circumstances.

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(b) (4) Adult Household Member Clearances. Criminal history records information and child abuse clearance certificates are required for each individual over the age of eighteen (18) who resides in the household of petitioners.

(d) Investigation. Upon receipt of petition for adoption the Court may appoint an investigator to verify the statements of the petition and desire ability of the proposed adoption. The cost of the investigation shall be at the rate set by the Court and shall be borne by the petitioners.

(f) Adult Adoption/Change of Name.

(1) Notice by Publication. If a person to be notified is not represented by legal counsel, cannot be personally served with notice, and cannot be served by mail because his or her residence is not known, a separate petition seeking authority to provide notice by publication may be filed by the prospective adoptive parent(s). Facts supporting the petition that cannot be verified by the petitioner(s) shall be stated in an affidavit accompanying the petition. If the petition is granted, notice by publication shall comply with 54 Pa. C.S. § 701(a.1)(3)(ii)(A) and be given at least 20 days prior to the scheduled hearing in one (1) newspapers of general circulation published at or near the last known address of the person to be notified and also in the legal periodical, if any, in that county.

In any adoption for an adult requesting a name change, an application for change of name in conformity with 54 Pa. C.S § 701(a.1) (2) shall be attached to the petition for adoption along with a fingerprint card completed by the adult adoptee. The application for change of name shall be filed with the Clerk of Orphans' Court and does not have to comply with the requirements in York R.C.P. 205.2 as stated in York R.C.P. 5730 (a).

(2) Evidence of Notice. Petitioners shall comply with the requirements in York R.C.P. 5730(b) and (c) (1).