

RULE 18-GUARDIANSHIPS

18.1 GUARDIANSHIPS OF MINORS

- A. A separate guardianship must be filed and a corresponding case file established for each proposed ward.
- B. The Court will not accept for filing any guardianship for a minor where the sole purpose of the guardianship is to establish a residency for school purposes. Custody for school purposes is a matter to be heard and determined by the Juvenile Division of the Court of Common Pleas.
- C. A certified copy of the minor child's birth certificate shall be filed with every Form 16.0 – Application for Appointment of a Guardian of a Minor.
- D. Minors who are not U.S. citizens or residential aliens, are not considered by this Court to be residents or have legal settlement as set forth in Section 211.02(A) of the Revised Code.

18.2 EMERGENCY GUARDIANSHIP

Except for good cause shown, an application for an emergency guardianship shall be filed in person by the applicant and shall contain a current statement of expert evaluation and a supplement for emergency guardian form stating an opinion that an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent. Except for good cause shown, the proposed ward shall be notified as soon as possible of the appointment of the emergency guardian.

18.3 COMMENTS/COMPLAINTS

Comments and complaints regarding guardians shall be filed in writing and made part of the record unless otherwise ordered by the Court. A copy of the filed comment or complaint shall be provided to the guardian who is the subject of the comment or complaint unless otherwise ordered by the Court. Comments and complaints may be addressed by the court investigator or by the court. Allegations of abuse, neglect, and/or exploitation shall be reported pursuant to R.C. 5101.61. If deemed appropriate, the matter may be promptly set for hearing or for further investigation. If set for hearing, the complainant and the guardian shall be notified of the hearing and shall appear unless otherwise ordered by the Court. Upon the conclusion of the hearing or

investigation, both the person making the comment or complaint and the guardian shall be notified of the disposition of the comment or complaint unless otherwise ordered by the Court.

18.4 GUARDIAN BACKGROUND CHECKS

An applicant for appointment as a guardian must submit to a civil and criminal record check satisfactory to the Court and execute such consent, if any, as may be requested by the Court to authorize the Court to perform that record check. In place of a civil and criminal background check, an Ohio attorney applicant currently in good standing with the Supreme Court of Ohio, may obtain and submit to the Court a Certificate of Good Standing with disciplinary information, issued by the Supreme Court of Ohio.

18.5 STATEMENT OF EXPERT EVALUATION

Where a physician or clinical psychologist states on a Statement of Expert Evaluation that to a reasonable degree of medical certainty it is unlikely the ward's mental competence will improve, the Court may dispense with the filing of subsequent evaluations.

18.6 GUARDIAN'S REPORT

All guardians are required to file their Guardian's Report (Form 17.7) as detailed in Section 2111.49 of the Ohio Revised Code on the first anniversary after the date of the issuance of the Letters of Guardianship and bi-annually thereafter.

18.7 CHANGE OF GUARDIAN'S ADDRESS

A guardian shall inform the Court as to any change of address of the guardian within thirty (30) days of the address change. Failure to notify the Court under this rule may result in the guardian being removed.

18.8 CHANGE OF WARD'S ADDRESS

A guardian shall notify the Court of a ward's change of residence and the reason for the change no later than ten (10) days prior to the proposed change. A ward's change of residence shall be subject to the Court's approval unless a delay in authorizing the change of residence would affect the health and safety of the ward. In such event, the guardian shall notify the Court in writing within three (3) business days indicating the change of residence and the reasons for the change.

18.9 LEGAL PROCEEDINGS

The guardian shall seek prior Court approval by judgment entry when filing for a marriage license, a divorce, or another extraordinary action concerning the best interest of the ward.

18.10 SALE OF PERSONAL PROPERTY

A guardian may not sell any tangible personal property of the ward without prior Court approval. Every application to sell a ward's tangible personal property shall be support by a written appraisal by a suitable and qualified appraiser.

18.11 POWERS OF ATTORNEY BY GUARDIAN PROHIBITED

The Court, through this Local Rule, exercises its discretion under R.C. 2111.50(A)(2)(c) and hereby prohibits a guardian appointed by the Court from executing a power of attorney or any other document which purports to appoint an agent to execute any of the duties or responsibilities imposed upon the guardian by law, rule, or order of the Court, unless otherwise approved by a specific order of the Court when exceptional needs are proven to exist.

18.12 TERMINATIONS

Except for the termination of a guardianship of a minor attaining the age of majority or upon the death of the Ward, a termination of a guardianship shall require notice to all persons designated in R.C. 2111.04 and to any other individuals who received actual notice of the original appointment of the guardian, provided their addresses are known, or with reasonable diligence, can be ascertained. It is the responsibility of the applicant for termination to perfect service pursuant to Civ.R. 73 when a termination is requested. A Certificate of Service with supporting documentation satisfactory to the Court must be filed prior to the consideration of the application.

18.13 GUARDIAN FUNDAMENTALS TRAINING REQUIREMENT/ GUARDIAN CONTINUING EDUCATION

A guardian holds a unique role with respect to the ward and the guardian has an obligation to obtain an understanding of the fundamentals of that relationship. Formalized training is one means to gain that competency.

Every guardian of a minor ward and every guardian for an adult ward must meet the guardianship fundamentals training requirements under Sup.R. 66.06 by completing, prior to appointment or within six (6) months thereafter, a six (6) hour guardian fundamentals course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity. Those failing to meet the requirement shall be subject to citation for being in contempt of court and subject to sanctions including, but not limited to, imposition of a fine, denial of compensation, and/or removal. The guardian is responsible for providing to the Court in a timely manner documentation that establishes compliance with the guardian fundamentals training requirement.

A guardian who has completed the guardian fundamentals training program offered by the Supreme Court of Ohio, or a similar course approved by this Court is *exempt* from this training upon providing such documentation supporting the exemption as the Court may require.

The representative of Advocacy and Protective Services, Inc. (APSI) are exempt from demonstrating compliance with the adult guardianship training programs so long as APSI is under contract with the State of Ohio to provide adult guardianship services and its assigned representative has complied with APSI training requirements.

Notwithstanding the foregoing exemption, the Court may require an otherwise exempt guardian or applicant for appointment as guardian, to complete a designated guardianship fundamentals training course or one or more guardian continuing education courses.

After completing the guardian fundamentals course, every guardian shall annually complete a three (3) hour guardian continuing education course provided by the Supreme Court of Ohio, or with prior approval of this Court, another entity.

If a guardian fails to comply with the guardian continuing education requirement, the guardian shall not be eligible for further appointment until the requirement is met. The guardian also may be subject to sanctions and/or removal.

By December 31 of the first calendar year after the year of completion of the guardian fundamental course, or its waiver by Court order, the guardian is responsible for providing to this Court documentation demonstrating compliance with this guardian continuing education requirement, including the title, date, location and provider of the education, or a certificate of completion containing such information.

18.14 COURT INVESTIGATION

When an Application for Appointment of Guardian for an Incompetent Person is filed, pursuant to Ohio Revised Code §2111.041, an investigation shall be ordered by the Court. The costs for said investigation shall be charged against the estate of the incompetent if the person is determined to be incompetent and a guardian is appointed. If the person is determined not to be incompetent or a guardian is not appointed, then the cost of the investigation shall be charged to the applicant. The fee for the investigation is Fifty Dollars (\$50.00) plus approved mileage costs.

18.15 INDIGENT WARDS

The applicant or the guardian must file with the Court an Affidavit of Indigency if a waiver of court costs and/or the investigation fee addressed in 18.16 herein is being requested. Further,

such an affidavit must also be filed if payment of compensation from the Indigent Guardianship Fund is being requested. False affidavits are punishable by findings of contempt, prosecution or other sanctions.

18.16 INDIGENT GUARDIANSHIP FUND

Fees may be paid from the Indigent Guardianship Fund to attorneys for services rendered in establishing, maintaining or terminating a guardianship subject to the limits set forth herein. As set forth in Local Rule 18.16, before payments will be approved from the Indigent Guardianship Fund an Affidavit of Indigency must have been filed in the case.

Fees incurred in establishing a Guardianship – a maximum fee of Five Hundred Dollars (\$500.00) per case for guardianships of the person and a maximum fee of One Thousand Dollars (\$1,000.00) per case for guardianships of the person and estate. In the case of multiple guardianship filings within the same family, the maximum fees apply to all cases collectively.

Fees for a court appointed attorney serving as a Guardian – the hourly rate approved by the Court is a maximum of One Hundred Dollars (\$100.00). Applications for payment of said fees from the Indigent Guardianship Fund must be accompanied by an itemization of services and must receive Court approval before payment will be authorized.

Other expenditures may be approved by the Court from the Indigent Guardianship Fund in the Court's discretion and pursuant to Ohio Revised Code §2111.51