

Chester County Court of Common Pleas Orphans' Court Rules¹

Chapter I Preliminary Rules

Rule L1.1. Short Title

These Rules shall be known as Chester County Orphans' Court Rules and shall be referred to individually and cited as "Ches.Co.O.C.Rule ____."

Rule L1.3A. Definitions

"Code" means the Probate, Estates, and Fiduciaries Code (20 Pa.C.S. §101 *et seq.*), as amended.

"Schedule of Distribution" is a document filed with the Clerk, if required by the Court in an adjudication, which describes the final distribution of estate assets.

Rule L1.6. Mediation by Agreement or Court Order

The Chester County Orphans' Court Mediation Program ("Mediation Program") utilizes Court approved attorneys who have been trained as Orphans' Court mediators.² All attorneys representing parties in Orphans' Court, and all unrepresented parties, are required hereby to make a good faith effort to consider utilizing the Mediation Program, or mediation through another program/person, before litigating any non-emergency matter in Court. All such attorneys shall discuss mediation with their clients at the beginning of their representation, and estimate the legal costs and likely duration of Court proceedings/appeals if mediation is not used. Information regarding the Mediation Program may be obtained from the Chester County Orphans' Court Administrator or the Clerk. For anticipated complex or lengthy litigation, the Court may order the parties to use the Mediation Program.

Rule L1.9. Trust Inter Vivos

The original trust instrument and any amendments thereto, shall be filed with the Clerk when the Court is first required to exercise its jurisdiction over the inter vivos trust. The instrument shall be indexed and recorded by the Clerk. Any revocation shall be likewise filed, indexed and recorded. The rules of Court applicable to testamentary trusts shall apply to trusts inter vivos as

¹ Most of these rules and all of the chapters are numbered to correspond to the applicable Pennsylvania Orphans' Court Rules and Chapters. Certain Chapters described in the Pennsylvania Orphans' Court Rules do not have a corresponding chapter in this publication because there are no local rules pertaining to them.

Those using these rules are encouraged to check the Clerk's website (www.chesco.org/wills) for state forms and information pertaining to certain matters described herein.

For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.

² Mediation is intended to provide participants with an opportunity to achieve a prompt, fair, and confidential resolution of a matter in dispute. Mediation allows sensitive matters to be privately discussed and finally resolved, without resort to public hearings. It also avoids costly pre-hearing litigation, hearings and appeals.

far as appropriate. In the event such instrument has been filed with another court, a certified copy thereof will be accepted in lieu of the original. All original instruments lodged with the Clerk shall be scanned (or otherwise electronically stored) and then returned.

Rule L1.10. Sureties

- (a) Individuals proposed as sureties on bonds of fiduciaries shall take an affidavit setting forth the facts as required thereby. Such affidavit shall be filed together with the bond when filed, and shall be renewed annually thereafter so long as the bond shall remain in effect. A member of the Bar or any employee of the Court shall not act as surety in any proceeding in this Court, except by special leave of Court.
- (b) Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this Court provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk. No bond shall be executed by any surety company until such a certificate is filed with the Clerk.

Rule L1.11. Corporate Fiduciaries

- (a) Corporations having fiduciary powers and authorized to do business in Pennsylvania may act as fiduciaries in matters pending in this Court if a copy of a currently effective certificate issued by the Pennsylvania Banking Department, the Comptroller of Currency, or the Federal Reserve Board, as the case may be, evidencing its right to exercise fiduciary powers, certified to be true and correct by an executive officer of the corporation, is filed with the Clerk.
- (b) Except where required by statute or for special cause shown, a bond will not be required of an approved corporate fiduciary.

Rule L1.12. Committee on Rules

Whenever deemed necessary, the president judge shall appoint a rules committee for the Orphans' Court of Chester County, which shall consist of at least six (6) attorneys who are members of the Chester County Bar Association, the Orphans' Court Administrator, the Clerk of the Orphans' Court, and any other person(s) designated by the president judge. The committee shall serve for the duration and purpose indicated by the president judge, who shall select the committee chairperson.

Rule L1.13. Reproduction of Papers

All pleadings and papers filed with either the Register or the Clerk shall be legible. Should any such pleading or paper not be sufficiently legible for mechanical reproduction, the Register or the Clerk may refuse to receive such pleading or paper or may require that a legible copy thereof be submitted.

Chapter II Accounts, Objections and Distributions³

Rule L2.1.(e) Accounts & Distribution.

Accountants preparing accounts are encouraged to review the accounts and schedule of distribution checklists available at the office of the Clerk and on its website at www.chesco.org/wills in order to include all information required by the Pennsylvania Orphans' Court Rules.

Rule L2.5.(i) Call of the Audit List.

Unless scheduled differently by the Court, the audit list will be called by the Court on the first Wednesday of every month. There will be no call of the audit list in January and July. Each audit list shall include continued accounts and new accounts eligible for audit. No attorney need be present unless an attorney desires to file written objections or a claim in Court at the call of the audit list. Accounts to appear on a particular audit list must be filed not later than thirty (30) days preceding the session of Court when the audit list will be called.

Rule L2.9.(c) Schedule of Distribution.

- (1) The adjudication of an account, when it appears advisable or when requested, will direct the attorney for accountant to prepare and file a schedule of distribution. The schedule shall be signed by all accountant(s) and certified by the attorney for the accountant(s) to be correct and in conformity with the adjudication. The schedule shall then be filed with the Clerk.
- (2) Receipts and disbursements subsequent to the date the account was stated shall be set forth in the schedule of distribution.
- (3) Objections to an unconfirmed schedule of distribution shall be filed with the Clerk and must be filed not later than the twentieth (20th) day after the schedule was filed. Such objection may raise questions relating only to the schedule. In no event shall such objection raise questions which were or could have been raised previously by claims or objections to the account.
- (4) If no objections are filed within twenty (20) days after the filing of the schedule, it will be approved. Schedules agreed to by all parties in interest may be approved prior to twenty (20) days after filing. After approval, the accountant shall have authority to make necessary assignments and transfers of any securities awarded in kind.
- (5) Notice of filing the schedule of distribution is to be given in accordance with the Pennsylvania Orphans' Court Rules.

Rule L2.9.(d) Distribution of Real Estate.

- (1) Schedules of distribution shall include separate awards of real estate to the parties entitled thereto, whether individually, or, where the circumstances require, in undivided interests.

³ For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.

The real estate so awarded shall be identified by reference to the adjudication in the same detail and with the same particularity as is commonly required to be included in deeds and shall recite how the title was acquired by decedent. A copy of the last recorded deed(s), certified by the Recorder of Deeds, shall also be included.

- (2) When partition or allotment of real estate is requested by the accountant or an interested party, the request shall be made prior to or at the audit. The Court may include in any order granting such a request, a direction to submit an information certificate issued by an attorney or a responsible title insurance company showing the current state of the title, provisions for owelty, if any, the preparation of a schedule of distribution, notice to the parties, and fixing the dates of further hearings, as may be necessary to protect all interested parties.
- (3) A certificate of award of real estate shall be prepared by the attorney for the accountant and submitted to the Clerk for execution upon confirmation of the schedule of distribution.

Chapter III Petition Practice and Pleadings⁴

Rule L3.6.(a) Pleadings Generally.

- (1) Every petition, motion, answer, reply or other pleading/filing shall:
 - (i) Cite the Pennsylvania Orphans' Court Rule, statute, case law or other legal authority supporting the relief sought;
 - (ii) Be typewritten or printed; and
 - (iii) Be endorsed on the front upper left-hand corner with the name, address, zip code, telephone number, facsimile number, email address, and identification number of the individual attorney representing the party filing the pleading or of the party if proceeding *pro se*.
- (2) Parties shall not send courtesy copies of pleadings/filings to the Court without the specific request of the Court for same.

Chapter IV Format and Service of Legal Paper by Parties and Court; Electronic Filing

Rule L4.2.(e) Citation or Notice by Publication.

The Chester County Law Reporter shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, the Pennsylvania

⁴ For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.

Rules of Civil Procedure, the Chester County Orphans' Court Rules, order of Court, or otherwise.

Rule L4.2.(f) Proof of Service of Citation or Notice.

- (1) A certificate of service shall be filed setting forth each document served, the date of service, and the manner of service (personal, registered or certified mail, or publication).
 - (i) If service is made by personal service, the certificate of service shall also set forth the time of service, place of service, and that a true and correct copy of the written notice was handed to the person served.
 - (ii) If service is made by registered or certified mail, the certificate of service shall state the date and place of mailing and include as an attachment the return receipt or a photostatic copy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, the person giving notice shall so state on the certificate of service. When the address of the person given notice by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

Rule L4.3.(g) Publication of Legal Papers other than Citations or Notices.

The Chester County Law Reporter shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, the Pennsylvania Rules of Civil Procedure, the Chester County Orphans' Court Rules, order of Court, or otherwise.

Rule L4.3.(h) Proof of Service of Legal Paper other than Citation or Notice.

- (1) A certificate of service shall be filed setting forth each document served, the date of service, and the manner of service (personal, registered or certified mail, or publication).
 - (i) If service is made by personal service, the certificate of service shall also set forth the time of service, place of service, and that a true and correct copy of the written notice was handed to the person served.
 - (ii) If service is made by registered or certified mail, the certificate of service shall state the date and place of mailing and include as an attachment the return receipt or a photostatic copy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, the person giving notice shall so state on the certificate of service. When the address of the person given notice by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

Rule L4.5.(c) Notices of Order, Decree, or Adjudication.

In any Orphans' Court proceeding, the Clerk shall immediately give written notice by ordinary mail, personal delivery, facsimile, or other electronic means of the entry of any order, decree, or adjudication to each party's attorney of record, or if unrepresented, to each party. Notice shall include a copy of the order, decree, or adjudication unless a bond is required, then no copy is provided until bond is posted. The Clerk shall note in the docket the mailing or type of delivery of the required notice and documents.

Chapter V Rules Governing Specific Types of Petitions

Rule L5.6.(c) Appearance of Minor.

A minor, under 14 years of age, who is the subject of a petition shall be present at the hearing unless excused by the Court.

Rule L5.6.(d) Bonds for Guardians of Minors.

Where the guardian is appointed for several minor children of the same parents, one bond may be filed to cover the several estates.

Rule L5.6.(e) Use of Minor's Funds During Minority.

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth the:

- (1) Manner and date of the guardian's appointment, as well as the guardian's qualifications;
- (2) Age and residence of the minor, whether the minor's parents are living, the name of the person with whom the minor resides, the age of minor's spouse and children, if any;
- (3) Value of the minor's estate, including real and personal property, and the minor's gross and net annual income;
- (4) Circumstances of the minor, whether employed or attending school; if the minor's parent(s), or other person charged with the duty of supporting the minor, is living, the financial condition and income of such person and why that person is not discharging his or her duty to support the minor; and whether there is adequate provision for the support and education of the minor, the minor's spouse and children;
- (5) Date and amount of any previous allowance by the Court; and
- (6) Detailed financial requirements of the minor and the circumstances requiring the allowance.
- (7) A preliminary decree shall be affixed to the Petition at the time of filing.

Rule L5.8.(c) Exhibits for a Petition to Discharge Fiduciary and Surety.

Written consent of the surety, if any, shall be attached to the petition, along with orders to satisfy awards from all other parties shall be submitted with the petition.

Rule L5.10.(c) Public Sale, Contents of Petition, Additional Requirements.

- (1) A petition by a personal representative to sell real property at public sale, under the Code, shall also set forth in separate paragraphs:
 - (i) The name, residence, and date of death of the decedent, whether the decedent died testate or intestate, and the date of the grant of letters;
 - (ii) That the personal representative is not otherwise authorized to sell by the Code or is not authorized or is denied the power to do so by the will, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;
 - (iii) Whether an inventory and appraisal has been filed, the total value of the property shown therein, and the value at which the real property to be sold was included therein;
 - (iv) If the personal representative entered bond with the Register, the name of the surety and the amount of such bond;
 - (v) The names and relationships of all interested parties, a brief description of their respective interests, whether any of them are deceased, minors, or incapacitated persons, and if so, the names and the record of appointment of their fiduciaries;
 - (vi) A full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment; and
 - (vii) Sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.
- (2) A petition by a trustee to sell real property at public sale, under the Code, shall also set forth in separate paragraphs:
 - (i) How title was acquired, stating the date and place of probate of the will or recording of the deed;
 - (ii) A recital of the relevant provisions of the will or deed pertaining to the real property to be sold, and of the history of the trust;
 - (iii) The names and relationships of all interested parties, a brief description of their respective interests, and whether any of them are deceased, minors, or incapacitated persons, and if so, the names and the record of the appointment of their fiduciaries;

- (iv) The improvements on the property, by whom it is occupied, its rental value and current tax assessment;
 - (v) That the trustee is not otherwise authorized to sell by the Code, or is denied the power by the trust instrument, or that it is advisable that the sale have the effect of a judicial sale, stating the reason(s); and
 - (vi) Sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.
- (3) A petition by a guardian to sell real property at public sale, under the Code, shall also set forth in separate paragraphs:
- (i) The age of the ward;
 - (ii) The names of the ward's next of kin and the notice given them of the presentation of the petition. When there are no known next of kin who are *sui juris* to whom notice may be given, public notice in accordance with the Pennsylvania Orphans' Court Rules and the Chester County Orphans' Court Rules must be given and proofs thereof must be attached to the petition as an exhibit;
 - (iii) How title was acquired, stating the date and place of probate of the will or recording of the deed;
 - (iv) A recital of the provisions of the will or deed relating to the real property to be sold;
 - (v) The nature and extent of the interest of the ward, and of other persons in the real property;
 - (vi) The improvements on the property, by whom it is occupied, its rental value and current tax assessment; and
 - (vii) Sufficient facts to enable the Court to determine that the proposed sale will be for the best interest of the ward.

Rule L5.10.(d) Public Sale of Real Property Petition Exhibits.

The following exhibits shall be attached to a petition by a personal representative, trustee, or guardian to sell real property at public sale:

- (1) A copy of the will, deed, or decree by which the fiduciary was appointed;
- (2) Any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent to join;
- (3) Consent by any mortgagee whose lien would otherwise not be discharged by the sale, or, if not attached, the reason therefor; and

- (4) An affidavit as to value by one licensed real estate appraiser.

Rule L5.10.(e) Decree.

Upon presentation of a public sale of real estate petition, the Court, if satisfied that public sale is appropriate, shall enter a decree fixing the time within which public sale shall be held and further fixing the time thereafter within which the return of sale shall be made to the Court.

Rule L5.10.(f) Notice and Return.

- (1) After the allowance of a petition for public sale of real property, the public sale shall be advertised.
- (2) A return of public sale of real property for the purpose of an approval or confirmation by the Court shall include an affidavit, which shall set forth:
 - (i) The advertisement made;
 - (ii) The name and address of the purchaser and that said purchaser was the highest bidder; and
 - (iii) As an attachment, a complete copy of the written agreement of sale.

Rule L5.10.(g) Security.

On the return day of the sale, the Court, in the decree approving or confirming the public sale, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

Rule L5.10.(h) Petition to Fix or Waive Additional Security, Personal Representative, Trustee.

- (1) In a public sale by a personal representative or trustee without benefit of an order of court directing or authorizing such sale, where the personal representative or trustee is required to give bond, he/she shall, before the proceeds of the sale are paid to the personal representative or trustee by the purchaser, present a petition to the Court setting forth:
 - (i) The date of death of the decedent;
 - (ii) The date of the petitioner's appointment;
 - (iii) The amount of the bond(s) filed by the petitioner(s) and the date of such filing and the name(s) of the petitioner's surety;
 - (iv) The total valuation of the personal estate as shown in the inventory and appraisement, if any, and the total proceeds of any real estate sold previously;

- (v) A short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid;
 - (vi) A prayer for an order fixing the amount of additional security or for an order excusing the petitioner(s) from filing additional security, as the case may be; and
 - (vii) In those cases in which waiver of additional security is sought, the consent of the interested parties shall be attached and a statement as will justify the waiver of the additional security shall be included, and said statement shall include but not be limited to, an averment that there are no creditors whose claims shall be jeopardized by the sale and that all taxes have been paid.
 - (viii) Petitioner(s) shall attach, at the time of filing, a preliminary decree to the petition.
- (2) The surety on any additional bond except for cause shown shall be the same as on the original bond.

Rule L5.11.(c) Private Sale of Real Property Petition Additional Exhibits.

The following exhibits shall be attached to a petition by a personal representative, trustee, or guardian to sell real estate at private sale:

- (1) A copy of the will, deed, or decree by which the fiduciary was appointed;
- (2) Any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join, such notice containing the date of the presentation of petition to the Court;
- (3) Consent by any mortgagee whose lien would otherwise not be discharged by the sale, or, if not attached, the reason therefor; and
- (4) A copy of the agreement of sale.

Rule L5.11.(d) Security.

The Court, in the decree approving or confirming the private sale, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering bond or additional security.

Rule L5.11.(e) Petition to Fix or Waive Additional Security, Personal Representative, Trustee.

- (1) In a private sale of real estate by a personal representative or trustee without benefit of an order of Court directing or authorizing such sale, where the personal representative or trustee is required to give bond, he/she shall, before the proceeds of the sale are paid to the personal representative or trustee by the purchaser, present a petition to the Court setting forth:
 - (i) The date of death of the decedent;

- (ii) The date of the petitioner's appointment;
 - (iii) The amount of the bond(s) filed by the petitioner(s) and the date of such filing and the name(s) of the petitioner's surety;
 - (iv) The total valuation of the personal estate as shown in the inventory and appraisal, if any, and the total proceeds of any real estate sold previously;
 - (v) A short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid;
 - (vi) A prayer for an order fixing the amount of additional security or for an order excusing the petitioner(s) from filing additional security, as the case may be; and
 - (vii) In those cases in which waiver of additional security is sought, the consent of the interested parties shall be attached and a statement as will justify the waiver of the additional security shall be included, and said statement shall include, but not be limited to, an averment that there are no creditors whose claims shall be jeopardized by the sale and that all taxes have been paid.
 - (viii) Petitioner(s) shall attach, at the time of filing, a preliminary decree to the petition
- (2) The surety on any additional bond except for cause shown shall be the same as on the original bond.

Rule L5.12.(c) Mortgage or Lease of Real Property, Additional Requirements.

- (1) A petition to mortgage or lease real property by a personal representative, trustee or guardian, shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed mortgage loan; and shall set forth sufficient facts to enable the Court to determine whether the proposed mortgage or lease should be approved.
- (2) The following exhibits shall be attached to the petition where applicable:
 - (i) A copy of the will, deed, or decree by which the fiduciary was appointed;
 - (ii) Consents to the mortgage or lease signed by those interested parties who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not consent;
 - (iii) A statement by the proposed mortgagee agreeing to grant the mortgage loan; and,
 - (iv) An appraisal by a licensed real estate appraiser of the real property on which the proposed mortgage is to be secured.
- (3) The amount of the security or additional security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the mortgage.

Rule L5.50.(e) Additional Petition Requirements to Settle Small Estate.

- (1) Petitions for settlement of small estates under the Code, shall set forth:
 - (a) The date of birth, the dates of the probate of the will and of the grant of letters, if any, and whether the personal representative has been required to give bond and in what amount;
 - (b) The names and relationships of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages or similar items under the Code, or otherwise, and whether any of them are minors, incapacitated persons, or deceased, with the names of their fiduciaries, if any;
 - (c) A prayer for distribution of the personal property to those entitled and, in appropriate cases, for the discharge of the personal representative.
- (2) There shall be attached to the petition the following exhibits:
 - (a) An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, items of distribution or the family exemption;
 - (i) A copy of the inheritance tax return and, if applicable, proof of payment; and
 - (ii) A copy of any notice given.
- (3) No appraisal shall be required unless ordered by the Court.

Chapter VII Rules Relating to Pre-hearing and Hearing Procedure

Rule L7.1. Discovery

In matters where all parties are in agreement as to discovery, a written stipulation shall be filed with the Court for its approval by stipulated order within a reasonable time prior to the proposed commencement of discovery. The stipulation must be signed by all parties or their counsel and must provide specific stipulations as to the nature and extent of the discovery as well as a timetable for completion of the discovery. Before entering into such discovery stipulation, the parties must consider how discovery related expenses will adversely impact the subject estate or trust and make a good faith effort to mitigate that impact.

In matters where the parties are unable to exchange discovery by agreement and are seeking to compel discovery, the parties should anticipate that the Court will limit discovery when it appears that the subject estate or trust will be unduly depleted by discovery related expenses.

Chapter IX Auditors and Hearing Officers

Rule L9.1. Notice of Hearings

Auditors and hearing officers shall give at least twenty (20) days' notice of hearings held by them to all interested parties or to their attorneys of record in the manner provided in the Pennsylvania Orphans' Court Rules. Notice of succeeding hearings given by the auditor or hearing officer at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

Rule L9.6. Report Notice and Objections

An auditor or hearing officer shall give notice of the filing of the report by sending a copy of the report to all parties of record. Any interested party shall have the right to file an objection(s) to such report within a period of twenty (20) days of the filing of the report. If an objection is filed, either party may request that the objection(s) be listed for argument. If an objection is not filed within twenty (20) days of the report filing, or if any such objections are overruled, the Court may enter a decree confirming the auditor's report or adopting the hearing officer's report.

Chapter X Register of Wills⁵

Rule L10.4.(a) Filing Petition for Appeal.

- (1) A person or entity desiring to take an appeal from the judicial acts or proceedings of the Register, shall file a petition for appeal with the Register, specifying the issues on which it is based, stating whether there is a request that disputed issues of fact be submitted to a jury, setting forth the names of all interested parties, and reciting the necessary jurisdictional facts.
- (2) When a petition for appeal has been filed, the Register shall transmit the record to the Clerk.

Rule L10.8. Renunciations

Any renunciation executed outside the Register's office must be executed in the presence of a Notary Public.

⁵ For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.

Chapter XIV Guardianships of Incapacitated Persons⁶

Rule L14.2.(a) Petition, Additional Requirements.

- (17) The petition for guardianship shall include an allegation as to whether the alleged incapacitated person is known to have appointed an attorney-in-fact, trustee or agent, and if so, the identity and address of such person.
- (18) The proposed guardian's written consent to his or her appointment as guardian shall be attached to the petition.

Rule L14.2.(g) Proof of Service of Petition and Citation with Notice.

An affidavit of service of the petition and the citation with notice shall be filed with the Clerk at least seven (7) days prior to the hearing date.

Rule L14.15. Bonds for Guardians

If bond is required of an appointed guardian, the Clerk shall not issue a copy of the guardianship order to the guardian until the bond has been filed. The Clerk may provide a non-certified copy of the order to the potential bonding company in order to facilitate the issuance of the bond.

Rule L14.16. Guardian Accounts

- (a) Guardian's accounts filed for audit shall conform with Ches. Co. O.C. Rule L2.1.(e).
- (b) Guardian's accounts shall have attached thereto as an exhibit a copy of the guardian's inventory and a copy of the order or decree appointing the guardian. If the accounting is occasioned by the death of the incapacitated person, the account shall have attached thereto a copy of the will if the incapacitated person died testate and a copy of the appointment of the personal representative of the deceased incapacitated person's estate.
- (c) Notice of the filing of the account shall be given as required by the Pennsylvania Orphans' Court Rules and any applicable local rule described herein. In all cases, notice shall be given to individuals entitled to notice under the Code.

Rule L14.17. Testamentary Writings

A person who possesses an original testamentary writing of an incapacitated person shall file it with the Clerk no later than by the time the guardian's inventory is required to be filed. The testamentary writing received by the Clerk shall be impounded until further order of Court.

⁶ Forms pertaining to guardianships are available with the Clerk and on the Clerk's website: www.chesco.org/wills.

Chapter XV Adoptions

Rule L15.4.(b)(4) Comment: Given the concerns of the court prior to terminating parental rights, petitioner(s) must demonstrate diligent efforts in identifying and/or serving the person whose parental rights are sought to be terminated prior to the court authorizing service by publication (e.g., mere failure of a sheriff to serve an individual at the presumed address is insufficient).

Rule L15.4.(c) Additional Time for Notice.

Notice shall be provided at least twenty (20) days prior to the date of the hearing for the listed proceeding.

Rule L15.7.(d) Appearance of Intermediary.

In a voluntary relinquishment to an agency proceeding, the Court requires the appearance of a representative of the agency(ies) or individual(s) who, has acted as the intermediary, unless excused by the Court.

Rule L15.12.(f) Hearing Evidence to Determine Adoptee's Consent.

(2)(C) For any petition brought to approve a post-adoption contract agreement where the adoptee is at least twelve (12) years old and/or any of the adoptee's minor siblings has signed a separate consent agreeing to the proposed contact agreement, a hearing shall be held for the court to determine whether the signing minor voluntarily consented to the proposed contact agreement and fully understood the terms of the proposed agreement, and whether the proposed agreement is in the adoptee's best interests.

Rule L15.13.(a) Petition.

(6)(i) If the report of the intermediary or the investigator is not filed within four (4) months of the filing of the Report of Intention to Adopt (or the appointment of the investigator), the Court, on motion of any party or on its own initiative, may issue a rule upon the intermediary or investigator to appear and show cause why the report has not been filed.

(7)(i) If there is not an intermediary named in the report of intention to adopt, the attorney shall attach an affidavit to the report which shall explain in detail how the person filing the report received possession of the adoptee from the birth parent(s), who arranged for the exchange of possession of the adoptee, how the person(s) filing the report received knowledge of the existence of the availability of the adoptee for potential adoption, and any other information the attorney may have regarding the relationship of the persons filing the report to the birth parent(s) and how the adoption was arranged.

Rule L15.13.(b) Exhibits.

- (9) All intermediaries, other than the Chester County Department of Children, Youth and Families, shall submit with the report of intention to adopt, an itemized report disclosing all adoption-related fees, expenses, and charges. No investigator will be appointed and no hearings will be scheduled until this information has been filed. Counsel shall certify on the report offered into evidence that the adopting parent(s) has been given a copy of the report and fees.

Rule L15.13.(d) Investigation.

- (1) In all cases in which the Chester County Department of Children, Youth and Families is the intermediary, the Court may rely on the intermediary's report and may not require an investigation by a court-appointed investigator. In all other cases, with the exception of those treated differently by statute, an investigation shall be conducted by a court-appointed investigator who, in the investigator's discretion, may rely upon the report of a voluntary child care agency acting as intermediary.
- (2) For any adoption brought pursuant to 23 Pa.C.S. § 2701 *et seq.* the Court may order a home-study investigation (even if the adoptive parents would be exempt pursuant to 23 Pa.C.S. § 2531(c)) or appoint a GAL if it would assist the Court to determine whether the adoption would be in the child's best interest. Costs for the home-study and GAL shall be borne by the petitioner(s)/adoptive parent(s). See 23 Pa.C.S. § 2535(c)
- (3) In all adoptions brought pursuant to 23 Pa.C.S. § 2701 *et seq.* and Pa.R.O.C.P. 15.13 where the child to be adopted was born in a foreign country and the adoption has not been brought or cannot be brought pursuant to Pa.R.O.C.P. 15.14 (Registration of a Foreign Adoption) or Rule 15.15 (Adoption of a foreign born child) the petitioner(s)/adoptive parent(s) (even if the adoptive parents would be exempt pursuant to 23 Pa.C.S. § 2531(c)) shall file a report of intention to adopt (see Pa. C.S. §§ 2535 and 2724) and submit to a home-study investigation. The court may also appoint a GAL to assist the court determine whether the adoption would be in the child's best interest. Costs for the home-study and GAL shall be borne by the petitioner(s)/adoptive parent(s). (See 23 Pa.C.S. § 2535(c))

Rule L15.15.(d) Judicial Review and Hearing.

- (2)(i) If the submitted home-study is dated more than one (1) year prior to the filing date of the petition, an updated home-study review is required (even if the adoptive parents would be exempt pursuant to 23 Pa.C.S. § 2531(c)) and the Court may appoint a GAL if it would assist the court determine whether the adoption would be in the child's best interest. Costs for the home-study and GAL shall be borne by the petitioner(s)/adoptive parent(s). See 23 Pa.C.S. § 2535(c).