

## GUARDIANSHIP—HOW TO GIVE NOTICE

**INTRODUCTION:** If you are filing for guardianship of a child and don't have an attorney, you will need to learn the rules for giving notice of your case to the parents, grandparents, and siblings of the child. This sheet sets forth the notice rules for the hearing on your Petition for Guardianship, which will be set two to four months after you file. If you also file a Petition for Temporary Guardianship, you should give notice to the same persons before the temporary hearing, but for good cause the judge may excuse imperfect notice for that hearing.

**DEFINITIONS:** A person seeking appointment as guardian of a child is called the **petitioner**. The child involved is sometimes called a **ward** or **minor**. If anyone objects to establishing the guardianship or objects to a particular petitioner, that person is usually called an **objector**.

**CONSENT:** Some of the persons entitled to notice might be in agreement with the guardianship. In that case, you can ask them to sign a Consent to Appointment of Guardian and Waiver of Notice ([Form GC-211, item 4](#)). You can file that signed consent and waiver form at the clerk's office at the courthouse instead of giving notice to the person.

**NOTICE TO PARENTS AND WARD:** You must have each parent and each ward who is over 12 years old "personally served" with your Petition for Guardianship ([Form GC-210\(P\)](#)) and the Notice of Hearing ([Form GC-020](#)). This means that someone over 18, who is not a party to the case, must hand these documents to each parent and each ward (over 12) at least 15 calendar days before the hearing, then fill out the attachment to the Notice of Hearing ([Form GC-020\(P\)](#)) as to the date, time, and place of service. You can have a registered process server perform this function, or the Sheriff, or anyone else over 18 who is not a party to the case. After service has occurred, you must file the completed notices of hearing with the signed, completed proof of service at the clerk's office at the courthouse.

**NOTICE TO GRANDPARENTS AND SIBLINGS:** The same two forms need to be served on the grandparents and siblings, but the service can be by mail (or by personal service if you wish). This means that someone over 18, who is not a party to the case, must mail the Petition for Guardianship and the Notice of Hearing to each living grandparent and to each sibling (and half-sibling) who is at least 12 years of age, at least 15 calendar days prior to the hearing, and then must sign the Notice of Hearing as to the date mailed. If a sibling is under the age of 12, the notice and petition can be mailed to the person having legal custody of that child, rather than sending it to the sibling directly. Again, you will need to file the completed notices of hearing, with the signature of the person who sent the documents by mail.

**IF YOU CANNOT LOCATE A PARENT, GRANDPARENT, OR SIBLING:** The judge might excuse you from serving a person if you do everything a reasonable person would do to locate and give notice, and fill out and file [Local Form RI-P08](#), "Declaration of Diligent Search."

**FILING DATE:** As long as you get the Petition for Guardianship and the Notice of Hearing handed to the parents, and mailed to the grandparents and siblings, at least 15 calendar days before the hearing, the Notice of Hearing (with its completed proof of service) can be filed at any time before the hearing. We would appreciate it, however, if you could file the Notice of Hearing at least four court days before the hearing. Whenever you file anything in your case, remember to take a copy with you to the clerk's office, and get it stamped so you can prove to the judge that you filed the original.

**IF SOMEONE AVOIDS SERVICE:** If anyone avoids or misleads you, in order to make it harder for you to fulfill these requirements, you can file the Declaration of Diligent Search form mentioned above, and attach information explaining why you think they are avoiding or misleading you. You can attach a screen-shot of a text or a Facebook message, showing that you told them the date, time, and place of the guardianship hearing, and asked them to cooperate with service of the papers. Also, if your process server tries to hand the documents to a parent, and the parent won't take them, the process server may drop them at the feet of the parent, and say "these are legal papers for you," or words to that effect.

**IF A PARENT IS INCARCERATED:** You can call the legal affairs officer at the prison or jail where the parent is located, explain that you have filed for guardianship, and ask to send the Petition for Guardianship and the Notice of Hearing to that officer, so that he or she can personally serve the parent, complete and sign the proof of service attachment to the Notice of Hearing ([Form GC-020\(P\)](#)), and send it back to you for filing.

**PERSONS IN FOREIGN COUNTRIES:** The fact that a parent, grandparent, or sibling lives in a foreign country does not usually excuse you from giving proper notice. The rules for service depend on the treaties that the United States has with the country in question. Of course, if the person signs a Consent to Appointment of Guardian and Waiver of Notice (Form GC-211, mentioned above), you won't usually need to serve them.

**EXCEPTIONS:** These are general rules, and certain exceptions may apply. By example, if the child has ever been adopted, you must serve the adoptive parents, grandparents, and siblings rather than the biological family. Also, the rules set forth above apply at the start of a guardianship case. The rules are somewhat different for a petition to terminate guardianship, or a petition for visitation of a guardianship child.

#### **ADDITIONAL RESOURCES**

- [Riverside Public Law Library](#): Open to the public, this collection includes books that explain many guardianship procedures and provide sample documents.
- [Riverside Legal Aid](#): For income-qualifying individuals, free legal advice and document preparation assistance.
- [Court Self-Help](#) in [Riverside](#), [Murrieta](#), [Banning](#), or [Indio](#): Assistance for self-represented litigants is available on scheduled workshop days, or by appointment, depending on the location.
- **Local Public Records** (most records are free at government offices): [County Recorder Real Property Index](#), [Court Case Name Search](#).
- **Free Internet search websites:** [yp.com](#), [dexpages.com](#), [zabasearch.com](#), [familytreenow.com](#).