

Rule 5.650. Resignation or Disqualification of Guardian; Appointment of Successor

(a) Resignation and Petition for Discharge. A guardian seeking to resign shall file a resignation and petition for discharge.

(b) Contents. The resignation and petition for discharge shall state:

(1) that the guardian wishes to resign and be relieved of all duties as guardian:

(2) the amount of compensation to be paid to the guardian and to the attorneys, accountants, or other agents employed by the guardian; and

(3) the names and addresses of the successor guardian and the successor guardian's attorney, or that a successor guardian has not yet been appointed or duly qualified.

(c) Final Report. A resigning guardian of the property shall file a final report showing receipts, disbursements, amounts reserved for unpaid and anticipated costs and fees, and other relevant financial information from the date of the previous annual accounting, and a list of assets to be turned over to the successor guardian.

(d) Notice. A notice shall be served stating that:

(1) any objection shall be in writing and shall state with particularity each item to which the objection is directed and the grounds on which the objection is based;

(2) any objection to the resignation, petition for discharge, or final report shall be filed within 30 days from the date of service of the petition for discharge; and

(3) within 90 days after filing of the objection, a notice of hearing thereon shall be served or the objection is abandoned.

(e) Service. A copy of the resignation, petition for discharge, final report, and notice of resignation and petition for discharge shall be served on the ward, any surety on the guardian's bond, any successor guardian, and such other persons as the court may direct.

(f) Objections. Objections shall be in the form and be filed within the time set forth in the notice of resignation and petition for discharge. A copy of the objections shall be served by the objector on the ward, all guardians, any surety on the guardian's bond, and any successor guardian.

(g) Disposition of Objections. Any interested person may set a hearing on the objections. Notice of the hearing shall be served on the guardian, the successor guardian, if any, and any other interested persons. If a notice of hearing on the objections is not served within 90 days of filing of the objections, the objections will be deemed abandoned.

(h) Discharge. The guardian's resignation shall not be accepted and the guardian shall not be discharged until all objections have been withdrawn, abandoned, or judicially resolved and a successor guardian has been appointed and duly qualified. After all objections have been withdrawn, abandoned, or judicially resolved, if the court is satisfied that the resigning guardian has faithfully discharged the duties of the guardianship and the interests of the ward are protected, and the resigning guardian of the property has delivered the assets of the ward, all guardianship records, and all money due to the ward from the guardian to the remaining or successor guardian, the court shall enter an order accepting resignation of guardian and granting discharge.

(i) Disqualification. Any guardian who is improperly appointed, or who becomes disqualified to act after appointment, shall immediately file a resignation and petition for discharge and proceed in accordance with this rule.

(j) Nonresident Guardians. Nonresident guardians appointed before October 1, 1989, shall not be automatically disqualified to serve and shall not be required to resign and initiate their own removal.

(k) Guardian Advocates. This rule shall apply to guardian advocates, except that a final report shall be required of a guardian advocate only if the guardian advocate's authority included the management of the property of the person with a developmental disability.