

Guardianship New Rules and Rule Changes: Effective January 1, 2020

11/19/2019 Rules Order: <https://www.courts.state.md.us/sites/default/files/rules/order/ro201.pdf>

Role of Counsel

Rule	Summary
10-106	<p><i>Attorney for Minor or Disabled Person</i></p> <ul style="list-style-type: none"> • Adding section (e), prohibiting a court from requiring an attorney for a minor or alleged disabled person to file an investigative report. <ul style="list-style-type: none"> ○ Clarifying that an attorney for the minor or alleged disabled person in a guardianship proceeding serves as an advocate for the client, and not as an investigator reporting to the court. • New Committee note after (e): highlighting the applicability of attorney-client privilege, as well as the attorney’s responsibilities under Rule 19-301.14, and the <i>Maryland Guidelines for Attorneys Representing Minors and Alleged Disabled Persons in Guardianship Proceedings</i>. • New cross reference after (e) to Md. Code, Courts Art., § 9-108.
10-106.1 New	<p><i>Pre-hearing Statement</i></p> <ul style="list-style-type: none"> • Authorizing a court to issue an order directing that a pre-hearing statement be filed on or before a date specified in the order. The statement must be substantially in the form approved by the State Court Administrator, and a blank copy of the form is to be included with the order. • Notes: <ul style="list-style-type: none"> ○ Use and timing at the discretion of the court – may not be necessary in every guardianship matter. ○ Contents of the form are limited to the matters listed in section (b). ○ Attorneys for minors or alleged disabled person should take care not to disclose information that is privileged or adverse to the client’s position. ○ (New) Court Form to be available on www.mdcourts.gov.
10-106.2 New	<p><i>Appointment of Investigator</i></p> <ul style="list-style-type: none"> • Renumbering of current rule 10-106.1.
Guidelines	<p><i>Maryland Guidelines for Attorneys Representing Minors and Alleged Disabled Persons in Guardianship Proceedings (Appendix)</i></p> <ul style="list-style-type: none"> • Adding definition of “minor” and “attorney.” • Expanding the applicability of the Guidelines to include attorneys who are not court-appointed. • Adding new guideline 1.2, which further clarifies the role an attorney for a minor or alleged disabled person as an advocate and providing guidance around information provided to the court.

Petitions

Rule	Summary
10-110	<p><i>Combination of Guardianship Petitions</i></p> <ul style="list-style-type: none"> • New (b): <ul style="list-style-type: none"> ○ Prohibiting single petitions for multiple alleged disabled persons. ○ Prohibiting single petitions for multiple minors unless the minors are “similarly situated full siblings.” ○ Committee note: If guardianship of minor siblings is granted, the court should enter a separate order for each minor.
10-111	<p><i>Petition for Guardianship of Minor</i></p> <ul style="list-style-type: none"> • Revising the instructions to clarify which form petition is to be used if guardianship of a minor is sought and directing that a single petition must be filed for each minor with an exception for “similarly situated full siblings.”
10-112	<p><i>Petition for Guardianship of Alleged Disabled Person</i></p> <ul style="list-style-type: none"> • Revising the instructions clarify which form petition is to be used if guardianship of an alleged disabled person is sought and directing that a single petition must be filed for each alleged disabled person.

Guardian Reporting Forms

Rule	Summary
10-206	<p><i>Annual Report-Guardianship of a Minor or Disabled Person</i></p> <ul style="list-style-type: none"> • Deleting the annual report forms from (e) and requiring that the report be “substantially in the form approved by the State Court Administrator and posted on the Judiciary website.”
10-707	<p><i>Inventory and Information Report</i></p> <ul style="list-style-type: none"> • Deleting the inventory and information report form from (a) and requiring that it be “substantially in the form approved by the State Court Administrator and posted on the Judiciary website.”
10-708	<p><i>Fiduciary’s Account and Report of Trust Clerk</i></p> <ul style="list-style-type: none"> • Deleting the fiduciary’s account form from (a) and requiring that it be “substantially in the form approved by the State Court Administrator and posted on the Judiciary website.” • Adding fields for the reporting period to the report of trust clerk and order forms in (b).

Other

Rule	Summary
10-209	<p><i>Termination of a Guardianship of the Person</i></p> <ul style="list-style-type: none"> • Removing the requirement from (d) that guardians of the person file a certified copy of the minor or disabled person’s death certificate with a petition to terminate guardianship of the person (a copy is sufficient).
10-403	<p><i>Petition by Standby Guardian</i></p> <ul style="list-style-type: none"> • Adding evidence of the adverse immigration action to the documentation required under subsection (d)(3)(C), and a conforming amendment (reference to 10-106.2).
10-404	<p><i>Hearing (standby guardianship)</i></p> <ul style="list-style-type: none"> • Conforming amendment (reference to 10-106.2).
16-907	<p><i>Case Records – Required Denial of Inspection – Certain Categories</i></p> <ul style="list-style-type: none"> • Shielding from public inspection all materials filed in guardianship actions except for information contained in docket entries and orders entered.