Basic Guidelines: Serving as Guardian or Conservator for a Minor

Developed in partnership with the Administrative Office of the Courts and Utah WINGS

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WINGS
Working Interdisciplinary Networks of Guardianship Stakeholders

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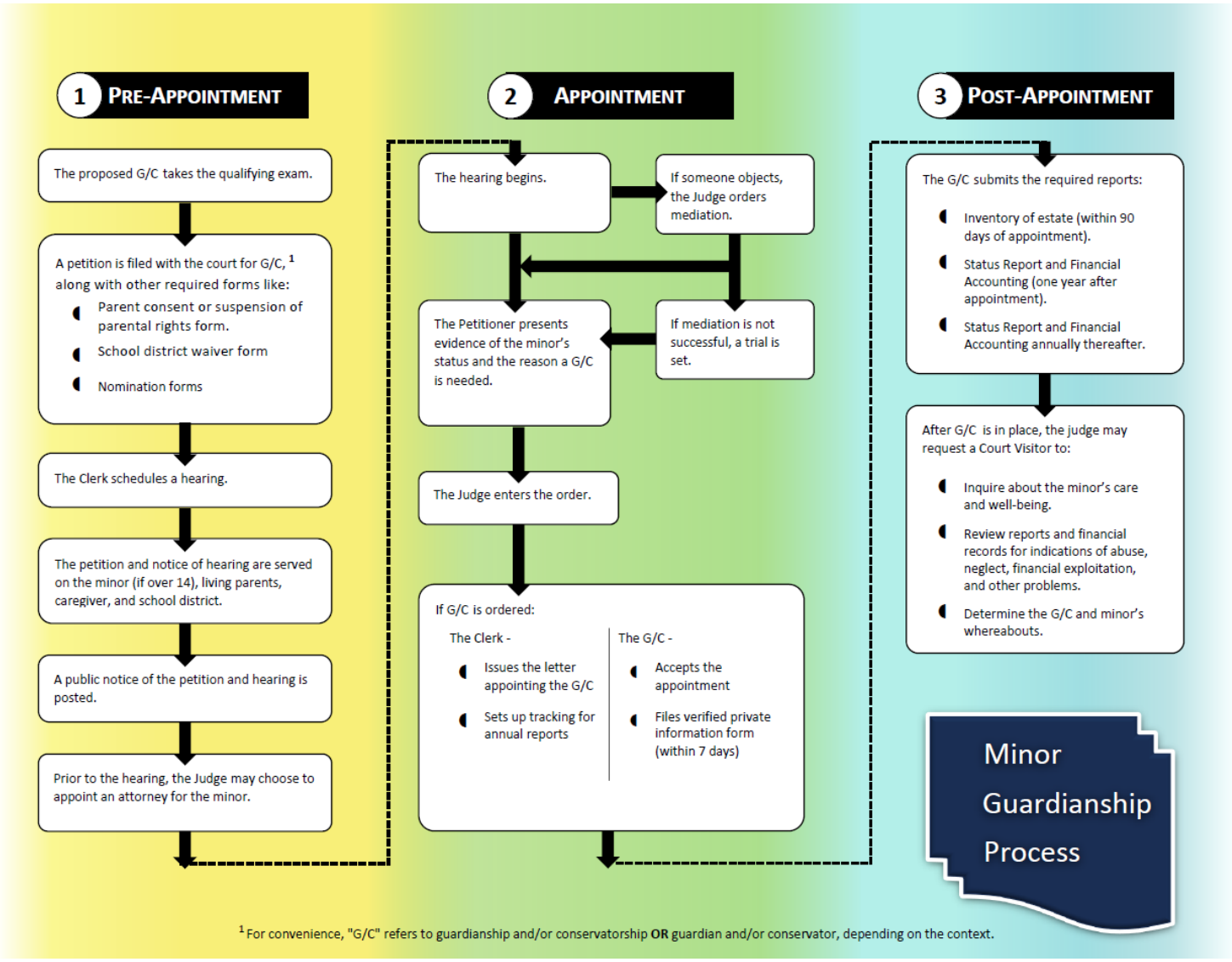
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A. Summary of the Minor Guardianship Process



[1] For convenience, "G/C" refers to guardianship and/or conservatorship **OR** guardian and/or conservator, depending on the context.

B. Introduction

Sometimes a person under the age of 18, known as a minor, needs someone other than a parent to serve as a caregiver. This caregiver will need to have the authority to make decisions for and on behalf of the minor. There are a few ways the caregiver might get this authority. One way is to be appointed by the court as the minor's legal guardian or conservator.

When a court names a **guardian** or a **conservator** of a minor, it takes away the right of other adults in the minor's life (like the parents) to make choices for the minor. Because of this, the court is careful about granting a guardianship. The court also monitors the guardians and conservators it appoints.

A court might appoint a guardian, a conservator, or both. These two jobs might be done by two different people, or the court might choose the same person for both jobs. If the court does not choose a conservator, then the guardian must take on some of the conservator's duties.

This handbook helps you learn what your **responsibilities** (jobs) are if you are thinking about asking the court to make you a guardian or conservator, or if the court has already appointed you.

This handbook does not teach you the steps for becoming a guardian or conservator. However, you can find the current rules for how a good guardian or conservator should act (standards and ethics) on the National Guardianship Association website.[1]

This handbook gives you general information. It is not meant to take the place of getting **legal advice**. If you have questions that are specific to your situation, you should talk to your lawyer.

What is a Guardian and a Conservator?

The court can appoint a guardian, a conservator, or both.

- **Guardian:** A guardian is a person chosen by the court to make decisions about the care of the minor. The minor is considered to be a protected person, and is sometimes called a "ward."

  Guardianship gives an adult who is not the child's parent the authority to make decisions about the child instead of the child's parents. Some examples of situations when you might ask the court for guardianship of a child are if you are:

  - A relative, like a grandparent, who is raising a child and needs to enroll the child in school, handle the child's medical care, or sign the child up for services.

[1] https://www.guardianship.org/standards/

- A parent that wants to send their child to live with someone else like a relative or a friend for a long period of time (for example, to go to school).

The guardian can be any responsible adult who is not the child's parent. The guardian does not need to be related to the child.

- **Conservator:** A conservator is a person chosen by the court to manage the money and finances of the minor, which can include assets the minor may be entitled to as a beneficiary of an estate, settlement, or trust.

  A conservator is a person or group chosen by a court to make important decisions about a minor's money and belongings. The court may appoint a conservator if:

  - the minor owns property that requires management or protection which cannot otherwise be provided;
  - the minor's business affairs may be jeopardized; or
  - a conservator is needed to obtain or provide funds for the minor's support and education.

  Often a conservator is needed if the minor is about to receive an inheritance, government benefits, insurance or annuity benefits, or damages as a result of a civil lawsuit.

If you are a guardian or conservator, you are in a **position of trust**. This means you have important legal duties and responsibilities (jobs) to the protected person. This position of trust is sometimes called a "fiduciary." [2]

Alternatives to Guardianship or Conservatorship

Guardianship through the court is not the only option for being the caregiver for a minor. Other options include:

- Power of Attorney - A parent can give another adult temporary authority to make decisions for their child with a power of attorney.
- Nomination - A parent can nominate someone to be the guardian for their child in the future, if something happens and a guardian is needed.
- School-Based Guardianship - A local school board can choose an adult in the district to be a child's guardian. Utah Code section 53G-6-303. Contact your local school to ask about this option.
- Adoption - Adoption terminates the parents' rights permanently and gives the rights to the child's new adoptive parents.

[2] Utah Code Section 75-1-201(17)

How Long Will I Be a Guardian or Conservator?

If you are chosen as a permanent guardian (or conservator), you are expected to stay in that role until the court officially ends your appointment.

Sometimes, the court may appoint a temporary guardian for a minor. This is someone who has the same responsibilities as a permanent guardian, but only serves in that role for a limited amount of time, usually less than 6 months.

If you are a permanent guardian and you want to stop, you can resign, but you must have the court's permission.

- If the minor has not yet reached age 18 the court can choose a new helper, called a successor guardian, to take your place.
- If you were doing two jobs, guardian and conservator, you can quit one job and keep the other.

Sometimes, the reasons why a person needed a guardian change. Maybe the person has reached the age of 18 and is no longer considered a minor, or maybe the minor has been adopted.

No matter the reason, you must keep doing your duties until the court officially removes you as the guardian or conservator.

When your job as guardian or conservator ends, there are required steps you must take:

- You must make a final report about the money and property (this is called a Financial Accounting Report).
- You must hand over the property to your successor[3] (the new helper) or the minor who is now an adult.
- You can talk to your lawyer or the Court's Self-Help Center[4] to learn the proper way to end the job and turn over the estate.

C. Responsibilities and Restrictions

General Responsibilities as Guardian

A guardian is a person chosen to take care of a child and their belongings.

Understanding the rules for a Guardian is very important. Utah law tells you what your job as a guardian involves. The court order explains exactly what your powers are, and if there are any limits.

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[3] Utah Code Sections 75-5-306, 75-5-307, and 75-5-415
[4] https://www.utcourts.gov/en/self-help/services/contact.html

As a guardian, you might need to:

- Be in charge of the minor.
- Decide where they live.
- Take care of their needs by providing comfort, basic maintenance, and care.
- Set up their school and social activities.
- Care for their things like clothes and personal belongings (personal effects).
- Say "yes" (consent) for them to get necessary medical care or professional treatment.
- Say "yes" to marriage or adoption, but only if the court gives you the power to allow it. For adoption, the rights of the minor's parents must already be taken away.

There are many things a guardian cannot do, unless the court specifically grants that power or you are also named the money helper (conservator).

As guardian, you may **NOT**:

- Agree to the minor's marriage, unless the court gives permission for you to consent to this.
- Agree to the adoption of a minor, unless the judge gives you special permission AND the parents have already lost their legal rights as parents.
- Hit or hurt the minor (physically punish them).
- Ignore the minor's needed healthcare.
- Leave the minor alone if they need care.

If a separate conservator has NOT been appointed, the guardian will need to manage the minor's money too:

- They can collect money that is meant to help the minor, but they must use this money to pay for the minor's everyday needs, like care and school.
- If there is any extra money left over, the guardian must save it carefully for the minor's future needs.
- The guardian cannot use the minor's money to pay themselves for their work unless a judge says it is okay.
- The guardian does not have to use their own money to take care of the minor.
- The guardian may be required to file an annual report with the court the covers both how the minor is doing and how the minor's money is being spent.

If the court chooses a separate conservator, that person has most of the job of handling the money and property. If there is a conservator, you must talk to them to be sure both of you understand your different jobs.

General Responsibilities as Conservator [5]

If the court does not appoint a separate conservator, you may also have some or all the conservator's responsibilities too.

Being a conservator means you are in charge of taking care of someone else's money and property. The law has strict rules about how you must do this, and you have certain powers unless a judge says otherwise. You are expected to be very careful, smart, and responsible with the money, just like a trusted manager.

Taking care of a minor's money is a lot like taking care of an adult's money. You must make a budget and keep their belongings safe. The main things to keep in mind are:

- Keep it Separate: You must keep the minor's money and property separate from your own.
- Use it Only for Them: You must use their property only for their benefit.
- Be Careful: Manage their property the same way you would want someone else to manage your own money.

Most minors do not have a lot of wealth, but if they do, there may be extra rules you have to follow.

Some things you may have the power to do as conservator include:

- You can keep, buy, sell, fix up, or rent out houses, land, and other belongings.
- You can put money in a bank or invest it to help it grow.
- You can buy, sell, or manage stocks.
- You can pay the minor's bills, settle their debts, and pay their taxes.
- You can buy insurance to protect the property from damage or loss.
- You can go to court to defend the estate from lawsuits.
- You can hand out money directly to the minor, their guardian, or their caretaker so they can buy the things the minor's needs
- You can hire professionals like lawyers, money advisors, or accountants to help you, and you are allowed to trust and follow their advice.
- You can sign any official documents needed to get these jobs done.

[5] Utah Code Sections 75-5-424, 75-5-425, 75-5-428, and 75-2-209

As a conservator, you are NOT allowed to do certain things:

- Do not mix your money with the minor's money (called comingling).
- Do not use the minor's money to pay your personal bills.
- Do not put the minor's estate funds into your personal bank account.
- Do not borrow money or property from the minor's estate.
- Do not sell the minor's estate property for less than its fair market value (what it is truly worth). For example, you cannot sell property cheaply to family members.
- Do not put your own name on the minor's property as if you own it. It is okay to put your name on an account as the *conservator* for the minor, but not as the owner.

Restricted bank accounts

A conservator must make safe and smart choices with the minor's money. If there is not a lot of money to risk, or if a judge orders it, the money should be put into a special bank account called a "restricted account."

A restricted account means that you must get permission from the court before you can take any money out. If all the child's money is kept in this kind of account, the conservator may not have to fill out yearly financial reports for the court.

If the court chooses a separate guardian, that guardian has the right to get money from you for the minor's daily costs. You can either pay the guardian an allowance, or you can choose to pay the bills directly to the people or businesses owed money.[6] You should talk with the guardian to agree on the amount and timing of these payments.

Financial decisions

When the court chooses a guardian, the guardian usually manages both the minor's daily life *and* their money. When the guardian handles the money, they are also acting as the conservator.

If you are a guardian and do not want the job of handling the money, you can ask the court to pick a different person to be the conservator.

Your main job is to use the minor's money and property to pay for their support, care, and education. If the minor has extra money after all their needs are paid for, the conservator should save or invest that excess money.[7]

[6] Utah Code Section 75-5-312 and 75-5-424
[7] Utah Code Sections 75-5-312 and 75-5-424

Steps for Managing the Accounts:

- Open a special checking account just for the guardianship or conservatorship. This is where you put income and pay bills.
- Write down a complete description of every time money moves (each transaction).
- If too much money starts to build up in the checking account, move the extra money to a savings or investment account that earns interest.
- If you need to pay a special, large bill from the savings account, you must move that money into the checking account first before paying the bill.

If you have specific questions about money or property, you should ask your lawyer or a financial expert for help. You can also find a Budget Worksheet template on the court's website to help you prepare a budget for the minor.[8]

Rights and Responsibilities of Parents[9]

The appointment of a guardian or conservator does not fully end a parent's rights and responsibilities for their minor child. The legal parents are still required or allowed to do some things, even if the court has ordered someone else to be guardian or conservator:

- Parents remain responsible for child support.
- Parents retain the right to consent to adoption.
- Parents retain the right to determine the child's religion.
- Parents retain the right to reasonable parent-time unless restricted by the court.

D. Reporting to the Court

You must file reports every year about the minor's home life and their money. You must be able to show proof for every time money was spent or earned. This proof can come from good recordkeeping. Good recordkeeping includes:

- Keep receipts and vouchers, like a receipt when you buy something or a bill for a service received. Saving these helps you write your reports later. The court might ask to see them at any time.

- Use folders and files to keep documents neat. You should have separate files for things like legal papers, tax information, bills that are paid, bills that need to be paid, letters, and other papers about the person you are helping.

[8] https://www.utcourts.gov/en/self-help/case-categories/gc/budgeting.html
[9] Utah Code Sections 75-5-209 and 80-1-102(70)(a)

- Do not mix up the minor's papers with your personal papers. Keep them totally separate, and save copies of all papers that the court gives you or that you give to the court.

- If you are the guardian, you should keep a journal or diary. Use this diary all year long to write down important things the minor does or big events that happen, especially if nobody else wrote it down.

- If the minor lives somewhere else, write down the dates you go to visit them.

Good records are important because they protect you if someone ever asks questions about how you managed the estate. If you do not keep good records, you might have to pay money yourself.

If you cannot show the court how you spent the minor's money or used their property, the court can make you pay that money back to the minor's estate. This is true even if you know you used the money correctly to help them.

Report Types

Most guardians and conservators have to turn in reports every year. If the guardian or conservator is not the parent, they are required to file these reports. [10]

The table below shows a summary of the required reports and the person in charge of doing them:

Report	Filed By	Due Date / Timeframe
Inventory	Conservator*	Within 90 days after the appointment
Status of the Protected Person	Guardian	Within 60 days after the anniversary of the appointment
Financial Accounting	Conservator*	Within 60 days after the anniversary of the appointment
Final Financial Accounting	Conservator*	Upon resignation or removal of the conservator (or guardian), or upon termination of appointment.
**** Filed by the guardian if no conservator has been appointed.***		

[10] Utah Code Sections 75-5-312, 75-5-417, and CJA Rule 6-501

What Happens If Rules Are Broken?

A judge can make a guardian or conservator pay a fine of **$5,000** if they do certain things wrong:

- If they purposefully do not file a report.
- If they make a very big mistake in the report they turn in.
- If they act wrongly while handling the minor's money or belongings.

CJA Rule 6-501 explains what needs to be included in each required report, who must get a copy of the report, how someone can disagree with (object to) a filed report, and when reporting is not required.[11]

Inventory Report

You need to create this special report one time. This report is called an Inventory.[12] You must file this report within 90 days after the court chooses you to be the conservator (or the guardian, if there is no conservator).

To complete the Inventory, you need to find and make a list of everything the minor owns. Once you have the whole list, you must prepare the Inventory Report. Then, you need to file it with the court. If you find more property later on that wasn't in your first list, you must create and file an updated (amended) Inventory report.

When is the Inventory Report Due?

After you are appointed by the court, you have 90 days to finish and file the Inventory Report. Because of this, the due dates are different for everyone.

Example:

If you became the guardian or conservator on June 1st, your Inventory Report would be due no later than August 29th.

Report on the Status of the Protected Person ("Status Report")

If you are a guardian, you must write a report for the court every year about the person you are protecting, the minor in this case. This yearly report is called the Status Report. [13]

The Status Report tells the court about the minor's care and how they are living. It also shows what the minor is doing. It helps the court know about changes or possible problems. These reports are private, meaning only the people involved in the case can see them.

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[11] https://legacy.utcourts.gov/rules/view.php?type=ucja&rule=6-501
[12] Utah Code Section 75-5-418
[13] Utah Code Section 75-5-209

What is covered in the Status Report?

The Status Report must cover a full 365 days. This 365-day period starts on the exact day you were named the guardian. Because of this, the due dates are different for everyone.

Example:

If you became the guardian on June 1, 2024, your report must include every day from June 1, 2024, until May 31, 2025.

The next year, the report would cover June 1, 2025, to May 31, 2026, and so on.

When is the Status Report Due?

The court gives guardians 60 extra days to complete the Status Report after the 365 days are finished.

Example:

Using the example above (the report covers until May 31, 2025), the final deadline to give the report to the court would be July 30, 2025.

Important: You are not allowed to turn in the Status Report early, before the full 365 days have passed.

These due dates are very important and will usually stay the same throughout the entire time you are the guardian, unless you ask the court to change them. If you are not sure when your report is due, you can ask the clerk at the courthouse for the correct dates.

Financial Accounting Report ("Accounting Report")

If you are a conservator, or the guardian if there is no conservator, you have to report to the court every year on the minor's income and assets. This report is called the Accounting Report. [14]

The starting point for the Accounting Report is based on information you provided in the Inventory Report. The reports track the minor's personal money, investments, and other things they own over time.

It is important to make sure all the money is tracked correctly. The amount of money left over at the end of last year must be the exact amount you start with this year.

To prove that you have handled the money correctly, you must send the Accounting Report along with bank statements, receipts, and other papers about the minor's money.

[14] Utah Code Sections 75-5-209 and 75-5-417

What is covered in the Accounting Report?

The report must cover a full 365 days. This year starts on the day the court named you as the guardian or conservator. Because of this, the due date for the report is different for everyone.

Example:

If you became the guardian or conservator on June 1, 2024, your report must include every day from June 1, 2024, until May 31, 2025.

The next year, the report would cover June 1, 2025, to May 31, 2026, and so on.

When is the Accounting Report Due?

The court gives guardians 60 extra days to complete the Accounting Report after the 365 days are finished.

Example:

Using the example above (the report covers until May 31, 2025), the final deadline to give the report to the court would be July 30, 2025.

Important: You are not allowed to turn in the Accounting Report early, before the full 365 days have passed.

These dates are very important and will usually stay the same for as long as you are in charge. If you are unsure about your deadlines, you can ask the clerk at the courthouse for the right dates.

Accounting Report When There is a Separate Conservator

If you are only the guardian AND the court named a separate conservator, you do not give an accounting report to the court. Instead, you must report to the conservator how you managed the minor's money.

You should talk with the conservator to agree on a time that works well for both of you to share your report.

Final Financial Accounting Report

The conservator - or the guardian if there is no conservator - must file a final accounting if any of these things happen:

- The guardian or conservator quits or is removed by the court.
- The minor dies, is adopted, or turns 18.
- The guardianship or conservatorship ends by order of the court.
- The court transfers the case to another state.

This final report needs to cover all the money transactions from the date the last report covered until the day the guardianship or conservatorship officially ends.[15]

The final accounting is done using the same form as the regular annual accounting. There is a place on the form to mark it as the final accounting.

When is the Final Accounting Report Due?

After you are approved by the court to no longer serve as conservator (or guardian, if there is no conservator), you have 60 days to finish and file the Final Accounting Report. Because of this, the due dates are different for everyone.

Example:

If you stop serving as the guardian or conservator on June 1st, your Final Financial Accounting Report will be due no later than July 30th.

Annual Report Due Dates

Annual reports must cover an entire full year (365 days).

This year begins counting from the exact day you were made guardian or conservator by the judge (this is called your date of appointment).

You must turn in these reports within 60 days of that starting day, every year.

For example:

- You are appointed as guardian or conservator on May 1, 2021.
    - You must file the one-time Inventory by July 30, 2021.
    - The Status and Accounting Reports are due by June 30, 2022.
    - Every year after, the Status and Accounting Reports are due by June 30.
    - The Status and Accounting Reports are late if they are turned in on July 1st or later.
    - This is repeated every year until the guardianship or conservatorship is terminated.

You can ask the court to change when you need to turn in your reports. For example, you might ask to switch to a calendar year (January 1st to December 31st) or any other 12-month period that is easier for you. [16]

If the court agrees to change the dates, your first report after the switch will be for a shorter amount of time.

[15] Utah Code Section 75-5-419 and CJA Rule 6-501
[16] CJA Rule 6-501

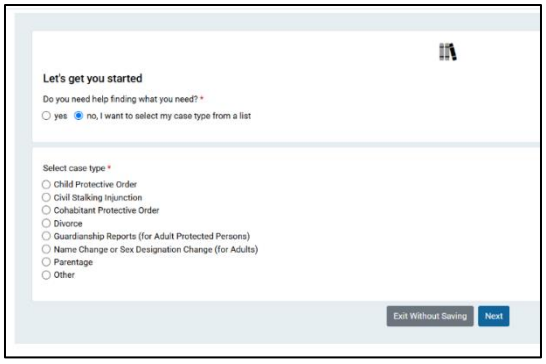
Here is an example to show how this works:

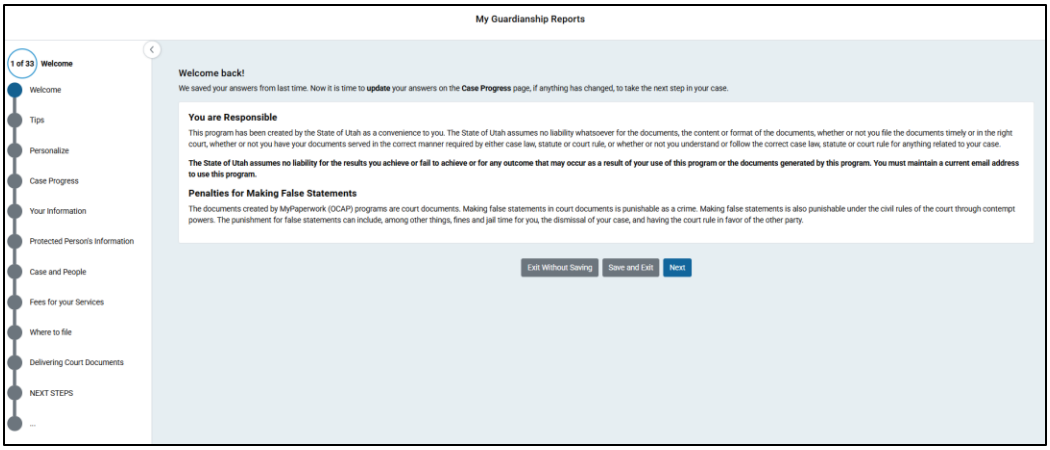
- You are appointed on August 17th.
- You then ask the court if you can report using a calendar year.
- If the court says yes, your very first report will only cover the time from August 17th until the end of that current year.
- After that first, short report, all of your reports later on will cover the full calendar year, running from January 1st to December 31st.

Filing Required Reports

You can fill out your report in two different ways: by hand or online.

1. **Doing the Report by Hand:**
    - You need to find the right report form on the court's website. [17]
    - You must print those papers.
    - Then, you complete the information needed.
    - Finally, you turn the forms in (file them) at the court.
2. **Doing the Report Online:**
    - Go to the MyPaperwork website. [18]
    - If you don't have an account already, you need to sign up to create one.
    - Choose the option called "Guardianship Reports." (see figure 1)
    - Follow all the directions on the screen. (see figure 2)
    - Once you have finished every item on the list, you must print the document.
    - Then, you turn it in (file it) at the court.





Figures 1 & 2:
Examples from MyPaperwork website.

[17] https://www.utcourts.gov/en/self-help/case-categories/gc/reports.html
[18] https://apps.utcourts.gov/InterviewWEB/#/gi/ua/GI0385

Where to File Your Report?

You must file your papers with the court that first chose you to be the guardian (made the appointment).

If the minor moves to a different county, you are allowed to ask the court to move your reports to that new county.[19]

Who Gets Copies of Your Report?

When you turn in your documents, you also need to send a copy to certain people, along with a notice that tells them they have the right to complain or disagree (object). This is called "serving" the documents.

You must serve copies on these people:

- The minor (if they are old enough to understand the proceedings). [20]
- The minor's guardian or conservator (if the judge picked different people for those jobs).
- The minor's parents.
- Anyone else who is officially asked to be notified. [21]

You can send these documents using mail, email, or by delivering them by hand.

What Happens After You File?

After you have filed your reports and any other papers that support them (supporting documentation), they will be sent to the judge to look over (review). The judge has several choices for what to do next:

- The judge may approve the report.
- The judge might ask you for more information.
- The judge might set a hearing (a meeting).
- The judge might order a Court Visitor. [22]

If anyone complains about your report (objects to the filing) or if the judge has more questions, the court clerk will set up a hearing. You and the other people involved will be told when and where this hearing will happen.

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[19] Utah Code Sections 75-5-205 and 75-5-403
[20] Utah Code Section 75-5-405
[21] Utah Code Section 75-5-406
[22] https://www.utcourts.gov/en/about/courts/dist/gramp/cvp.html

E. Criminal penalties

People who are trusted to take care of someone else's money or well-being are sometimes called fiduciaries.

If you are a fiduciary, you must be very careful, especially about breaking the law. If you do certain wrong things, you can be found criminally liable. This means you could get into trouble with the police and courts.

In Utah, you can get in trouble if you do these kinds of bad things to the person you are supposed to protect:

- Stealing money or using it unfairly (this is called financially exploiting them).
- Not taking care of them (this is called neglecting them).
- Hurting their body or their feelings (this is called physical or emotional abuse).

There are many laws that talk about how a trusted person should act. Because these penalties are so serious, talk to your lawyer if you have specific questions.

F. Other Considerations

Compensation

Sometimes, a family member is a guardian or conservator and chooses not to be paid for their work. However, if the court agrees, a guardian or conservator is allowed to receive a fair payment from the money belonging to the minor.

To figure out if the pay is fair (reasonable[23]), the court looks at a few things:

1. The type of help you gave.
2. How good you are at the job (your skill).
3. If the time and money you spent were necessary or justified.

You must always keep accurate records of everything you do.

Liability

You are not legally responsible for things the minor may do.[24]

You do not have to pay for things the minor does (like if a minor committed a crime while under guardianship). You are also not responsible if you take actions that are reasonable and help the minor.

[23] Utah Code Section 75-5-414
[24] Utah Code Section 75-5-209

When you manage the minor's money and belongings, you will not be blamed if you act like a careful person handling someone else's property.

However, you must pay if you personally make a mistake or are careless and it harms the minor. [25]

To stop problems from happening, you should understand your job, use common sense, and make good decisions.

The court may ask for an insurance policy called a bond to keep the minor's money safe. [26] The court can decide not to require this bond if there is a good reason. The minor's estate pays for this insurance. The bond protects the person if your mistake causes the estate to lose money.

To figure out how much the bond should cost, you must add up the total value of the minor's stuff that you manage and then add one year's estimated income.

Conflict of Interest

Guardians and conservators have important rules they must follow when they manage the money and things of a person who is protected. You must always try to avoid situations where there could be a conflict of interest or self-dealing.

> **Conflict of Interest** happens when the guardian has a personal reason (an interest) in the minor's money that might seem helpful to the guardian or harmful to the minor.
>
> **Self-Dealing** is when the guardian tries to use their job as guardian to help themselves instead of helping the person they are protecting.

Self-dealing can sometimes happen in ways that seem innocent. For example, using any of the minor's property just for you, or paying for a family vacation with only the minor's money.

You must not loan or give away the minor's money or things unless you get special permission first. You must only use the minor's money for their benefit.

Representative Payee

If the minor gets payments or income from an agency, like the Social Security Administration, the agency will choose someone to manage those payments, called a representative payee.

The job of the representative payee is separate from the job of a court-appointed guardian or conservator.

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[25] Utah Code Section 75-5-429
[26] Utah Code Sections 75-5-411 and 75-5-412

If you want to be the representative payee, you must ask the agency that sends the money. In most cases, the agency will choose the person who is already the court-appointed guardian or conservator. However, the agency that gives the benefits can choose another person to be the representative payee.

Once chosen by the agency, the representative payee has the power to receive and handle the benefit payments for the minor.

If the minor's estate is limited to payments from a state or federal agency that requires an annual accounting, like the Social Security Administration, you may file with the court a copy of the agency's form rather than the court form.

G. Resources

PROTECTIVE SERVICES	**Child and Family Services:** Call: 1-855-323-3237 Website: https://dcfs.utah.gov/
COMMUNITY SERVICES	**Children's Service Society of Utah - GRANDfamilies:** Call: 801-326-4409 Website: https://cssutah.org/
LEGAL RESOURCES	**Utah Legal Services:** Call: 801-328-8891 Website: http://www.utahlegalservices.org/
COURT RESOURCES	**Self Help Center:** Call: 888-683-0009 Text: 801-742-1898 Website: https://www.utcourts.gov/selfhelp/contact/ Email: selfhelp@utcourts.gov
INFORMATIONAL RESOURCES	**National Guardianship Association** Website: https://www.guardianship.org/find-a-guardian/
***** In case of an emergency, call local law enforcement or 911.***	

Appendix A – Changes in the Guardianship

For more information on the options below, visit the court's webpage titled, **"Changing or Ending a Guardianship or Conservatorship."** [27]

IF…	Provide the following to the Court
If the Minor is deceased	• Any proof of death (i.e., death certificate, obituary) • Motion to terminate a guardianship or conservatorship of a minor • A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms
If the Guardian or Conservator is deceased	• Provide proof of death of the guardian or conservator • Contact information for the minor or for the person temporarily responsible for the minor's care
If the Minor has turned 18 years old	• Motion to terminate a guardianship or conservatorship of a minor • A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms
If the Minor has been adopted	• Proof of adoption • Motion to terminate a guardianship or conservatorship of a minor • A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms
If the Guardian or Conservator no longer has contact with the Minor	• Motion to terminate a guardianship or conservatorship of a minor • A final accounting, along with the Certificate of Service, Right to Object, and Order on Review forms

[27] https://www.utcourts.gov/en/self-help/case-categories/gc/change-or-end.html#accordion-e8ad48a79b-item-667c58f564

Appendix B – Utah Code 75-5-209

Powers and duties of guardian of minor -- Residual parental rights and duties -- Adoption of a ward.

(1) For purposes of this section, "residual parental rights and duties" is as defined in Section 80-1-102.

(2) Except as provided in Subsection (4)(a), a guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of the parent's unemancipated minor, including the powers and responsibilities described in Subsection (3).

(3) A guardian of a minor:

(a) must take reasonable care of the personal effects of the guardian's ward;

(b) must commence protective proceedings if necessary to protect other property of the guardian's ward;

(c) subject to Subsection (4)(b), may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of a:

(i) statutory benefit or insurance system;

(ii) private contract;

(iii) devise;

(iv) trust;

(v) conservatorship; or

(vi) custodianship;

(d) subject to Subsection (4)(b), may receive money or property of the ward paid or delivered by virtue of Section 75-5-102;

(e) except as provided in Subsection (4)(c), must exercise due care to conserve any excess money or property described in Subsection (3)(d) for the ward's future needs;

(f) unless otherwise provided by statute, may institute proceedings to compel the performance by any person of a duty to:

(i) support the ward; or

(ii) pay sums for the welfare of the ward;

(g) is empowered to:

(i) facilitate the ward's education, social, or other activities; and

(ii) subject to Subsection (4)(d), authorize medical or other professional care, treatment, or advice;

(h) may consent to the:

(i) marriage of the guardian's ward, if specifically authorized by a court to give this consent; or

(ii) adoption of the guardian's ward if the:

(A) guardian of the ward is specifically authorized by a court to give this consent; and

(B) parental rights of the ward's parents have been terminated; and

(i) must report the condition of the minor and of the minor's estate that has been subject to the guardian's possession or control:

(i) as ordered by court on petition of any person interested in the minor's welfare; or

(ii) as required by court rule.

(4) (a) Notwithstanding Subsection (2), a guardian of a minor is not:

(i) legally obligated to provide from the guardian's own funds for the ward; and

(ii) liable to third persons by reason of the guardian's relationship for acts of the ward.

(b) Sums received under Subsection (3)(c) or (d):

(i) may not be used for compensation for the services of a guardian, except as:

(A) approved by court order; or

(B) determined by a duly appointed conservator other than the guardian; and

(ii) shall be applied to the ward's current needs for support, care, and education.

(c) Notwithstanding Subsection (3)(e), if a conservator is appointed for the estate of the ward, the excess shall be paid over at least annually to the conservator.

(d) A guardian of a minor is not, by reason of giving the authorization described in Subsection (3)(g)(ii), liable for injury to the minor resulting from the negligence or acts of third persons, unless it would have been illegal for a parent to have given the authorization.

(5) A parent of a minor for whom a guardian is appointed retains residual parental rights and duties.

(6) If a parent of a minor for whom a guardian is appointed consents to the adoption of the minor, the guardian is entitled to:

(a) receive notice of the adoption proceeding pursuant to Section 81-13-207;

(b) intervene in the adoption; and

(c) present evidence to the court relevant to the best interest of the minor as described in Subsection 81-13-207(11).

(7) If a minor for whom a guardian is appointed is adopted subsequent to the appointment, the guardianship shall terminate when the adoption is finalized.

Appendix C – CJA Rule 6-501

Reporting requirements for guardians and conservators

Intent:

To set forth the testing requirements for guardians and conservators and to establish standards and procedures for inventories, reports, and accountings that guardians and conservators are required to file under the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators.

Statement of the Rule:

(1) Definitions.

(1)(A) “Accounting” means the annual accounting required by Utah Code section 75-5-312 and section 75-5-417 and the final accounting required by Utah Code section 75-5-419.

(1)(B) “Interested person” means the respondent, if he or she is not a minor, the respondent’s guardian and conservator, the respondent’s spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code section 75-5-406. If no person is an interested person as previously defined, then interested person includes at least one of the respondent’s closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code section 75-5-207.

(1)(C) “Inventory” means the inventory required by Utah Code section 75-5-418.

(1)(D) “Serve” means any manner of service permitted by the Utah Rules of Civil Procedure.

(1)(E) “Protected person” means a minor or an incapacitated person for whom the court appoints a guardian or an individual for whom the court appoints a conservator.

(1)(F) “Report” means the inventory, accounting, or annual report on the status of the protected person under Utah Code sections 75-5-209 and 75-5-312, and the final accounting under sections 75-5-210 and 75-5-419

(1)(G) “Respondent” means a person who is alleged to be incapacitated and for whom the appointment of a guardian or conservator is sought.

(2) Exceptions.

(2)(A) Paragraph (3) does not apply to the following:

(2)(A)(i) a guardian certified under Utah Code section 75-5-311;

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator issued a permit under Utah Code section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraphs (6)(C) and (8)(C) do not apply to the guardian of a minor if the minor's estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) Examination and private information record.

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file:

(3)(A)(i) a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator; and

(3)(A)(ii) a completed and verified Private Information Record form provided by the Administrative Office.

(3)(B) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator's contact information.

(4) Recordkeeping.

The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records until the appointment is terminated and then deliver them to the successor guardian or conservator, to the protected person if there is no successor guardian or conservator, or to the personal representative of the protected person's estate.

(5) Filing and service of required reports and proposed Order on Review

(5)(A) The guardian or conservator will file with the court the reports required by paragraphs 6, 7, 8, 9, and/or 10 using the appropriate Council-approved form or a form that substantially conforms to the format and content of the Council form.

(5)(A)(i) A corporate fiduciary will attach its internal report or accounting, if any, as an exhibit to the Council form.

(5)(A)(ii) If the protected person's estate is limited to a federal or state program requiring an annual accounting, the guardian may file a copy of that accounting instead of the Council form.

(5)(B) The annual status report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period.

(5)(C) Along with the required report, the guardian or conservator will also file the Council-approved Order on Review of Guardian or Conservator Report ("Order on Review") as a proposed document.

(5)(D) The guardian or conservator must serve a copy of the required report on all interested persons in accordance with the Utah Rules of Civil Procedure. The required report must include the following language at the top right corner of the first page, in bold type: You have the right to object to this report within 28 days of service. If you do not object within that time, your objection may be waived.

(6) Inventory.

(6)(A) Within 90 days after the appointment, the conservator must file with the appointing court the inventory required by Utah Code section 75-5-418 in accordance with paragraph 5. The inventory must be in substantially the same form as the inventory form approved by the Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

(6)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it by signing the Order on Review.

(6)(C) If there is no conservator, the guardian must file the inventory required of a conservator under Utah Code section 75-5-312.

(7) Annual status reports.

(7)(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment in accordance with paragraph 5.

(7)(A)(i) The status report must be in substantially the same form as the status report form approved by the Council, including the required attachments.

(7)(A)(ii) The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code section 75-5-313.

(7)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

(7)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it by signing the Order on Review

(8) Annual accounting.

(8)(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment in accordance with paragraph 5.

(8)(A)(i) The accounting must be in substantially the same form as the accounting form approved by the Council, including the required attachments.

(8)(A)(ii) The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code section 75-5-403.

(8)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(8)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it by signing the Order on Review.

(8)(C) If there is no conservator, the guardian must file the accounting required of a conservator under Utah Code section 75-5-312.

(9) Final accounting.

(9)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment in accordance with paragraph 5.

(9)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it by signing the Order on Review.

(10) Objections.

(10)(A) If an interested person objects to a report, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit in the court record.

(10)(B) The objection must specify in writing the entries to which the person objects and state the reasons for the objection.

(10)(C) An objection to a report may not contain a request to remove or substitute the guardian or conservator. Any request for removal or substitution of the guardian or conservator must be filed as a separate petition consistent with Utah Code section 75-5-307 or 75-5-415.

(10)(D) If an objection is filed, the court must conduct a hearing unless the court determines that a hearing is not necessary. If the court determines that a hearing is not necessary, the court must issue a minute entry or order stating why a hearing is not necessary.

(10)(E) At the hearing, the court may require the guardian or conservator to supplement or amend the report if the court determines there is good cause for the objection.

(10)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court may deny the objection and approve the report.

(11) Waiver. If an interested person does not object to a report within 28 days of service, the interested person waives any objection unless:

(11)(A) the objection relates to matters not fairly disclosed by the report; or

(11)(B) the time for objection is extended by the court under the Utah Rules of Civil Procedure. If the request for an extension is made before the time has run, the court may extend the time for good cause. If the request is made after the time has run, the court may extend for excusable neglect.

(12) Report approval.

(12)(A) Approval. The court must examine and approve the report as required by Utah Code sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the court's knowledge notice has been given to every person

entitled to notice, no objection has been received, the report meets the requirements set forth by the report form, and the court has not requested additional information or scheduled a hearing. Such approval does not foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an appeal time.

(12)(B) Notice to interested persons. When a court approves a report, the court must sign and enter the Order on Review. When a court does not approve a report, the court must indicate on the Order on Review, or in another minute entry or order, the reasons for non-approval, any additional actions required, and serve it on all interested persons entitled to notice.

(13) Report on a minor.

Under Utah Code section 75-5-209, a person interested in the welfare of a minor may petition the court for a report from the guardian on the minor's welfare or the minor's estate. If the court orders a status report from the guardian, the status report must be in substantially the same form as the status report form for guardianships of adults approved by the Council, including the required attachments.

Glossary of Terms

Acceptance of appointment	A written document signed by the guardian/conservator confirming acceptance of the order to serve as guardian/conservator of the minor. This document must be filed with the court.
Affidavit	A written and sworn statement witnessed by a notary public or other official with the authority to administer oaths. Affidavits may be admitted into evidence.
Agent	An adult appointed by another adult ("the principal") in a power of attorney, executed according to law. The agent's legal authority is limited to the authority granted by the principal.
Annual accounting	The yearly financial report of the minor's estate that the guardian—or conservator if one has been appointed—must file with the court.
Annual report	Report required to be completed and filed with the court every year, within 60 days from the anniversary of the date the guardian or conservator was appointed. Annual reports include the Status Report and the Financial Accounting report.
Appointment	The designation of a person by the court to be a guardian or conservator and to discharge the duties of that office.
Bond	Insurance that the court may require that covers the minor's estate. Paid for by the minor's estate.
Certified copy	A certified copy of a court order is dated, signed, and stamped by the Clerk of Court certifying that the copy is a true copy of the original court order. A certified copy is a photocopy of the original, but it will have an original stamped or embossed seal of the court and clerk's signature.
Chambers	A judge's private office in the courthouse.
Closed hearing	A hearing that can be attended only by those with a direct interest in the proceeding. The public cannot attend. Any party in a guardianship / conservatorship proceeding may request closed hearings. Most hearings are open or public hearings and anyone may attend.
Code of Judicial Administration (CJA)	The rules established by the Utah Judicial Council governing administrative practices and procedures of the state judiciary.
Conservator	A person or institution appointed by the court to manage the property and financial affairs ("estate") of a minor. A guardian is a person or institution appointed by a court to make decisions about the care of another person

	who is in need of continuing care and protection, such as a minor child or an incapacitated adult. Sometimes the same person is appointed to both roles. If no conservator is appointed, the guardian has some of the responsibility of a conservator.
Conservatorship	The court proceeding to appoint a conservator and any subsequent proceedings. A conservatorship exists when the court has appointed a conservator for a person in need of protection.
Court visitor	A person who is trained in law, nursing, or social work and is an officer, employee, or special appointee of the court with no personal interest in the proceedings. The judge may appoint a visitor to inquire about and observe a minor's circumstances to provide a more complete and nuanced picture of that person's life.
Emergency guardianship	An extraordinary court proceeding that may result in the appointment of an emergency guardian to provide for the immediate care and custody of a person for a specified period not longer than 30 days. If an emergency guardian is appointed, the court must hold a hearing within 14 days and begin the process to determine the respondent's incapacity.
Estate	All of the minor's assets and liabilities, including all real property (land) and personal property (things).
Evidence	Testimony, records, documents, material objects, or other things presented at a hearing to prove the existence or nonexistence of a fact.
Fiduciary	A person who has assumed a special relationship to another person or another person's property, such as a trustee, administrator, executor, lawyer, or guardian/conservator. The fiduciary must exercise the highest degree of care to maintain and preserve the person's rights and/or property which are within his/her charge.
Financial accounting report	The yearly financial report of the minor's estate that the guardian—or conservator if one has been appointed—must file with the court.
Final accounting report	The last financial accounting that must be filed with the court by the guardian or conservator upon the death of the minor, resignation of the guardian or conservator, or termination of the guardianship/conservatorship.
Guardian	A person or institution appointed by a court to make decisions about the care of another person who is in need of continuing care and protection, such as a minor child or an incapacitated adult. A conservator is person or institution appointed by the court to manage the property and financial affairs ("estate") of a minor. Sometimes the same person is appointed to both roles. If no conservator is appointed, the guardian has some of the responsibility of a conservator.

Guardian ad litem	A lawyer appointed by a court to look after the interests of a minor child during court proceedings, or to look after the interests of an adult in conservatorship proceedings.
Guardianship	The court proceedings to appoint a guardian and any subsequent proceedings. A guardianship exists when the court has appointed a guardian for an incapacitated person.
Hearing	A formal proceeding (generally less formal than a trial) with issues of law or of fact to be heard and decided.
Interested person	As defined in the Utah Uniform Probate Code, an "interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust or the estate of a decedent, or minor. It also includes persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but incapacitated. The court can determine who is an interested person in a particular case, so the meaning may vary from one case to the next.
Inventory	A detailed list of property and other assets with their estimated or actual values. A guardian or conservator must file an inventory with the court within 90 days after appointment.
Jurisdiction	The legal authority of a court to hear and determine a case. Jurisdiction also means the power of the court over the persons involved in a case and over the subject matter of the case.
Letters of guardianship or conservatorship	The document issued by the court authorizing the appointment of the guardian/conservator and the extent of the powers of the guardian/conservator to act on behalf of the minor.
Minor	A child under the age of 18 who, by law, does not have the capacity to manage his or her affairs.
Notice	Written notification that a petition for appointment of a guardian has been filed and the date, time and location of the hearing. The notice will also include a description of the respondent’s rights and possible effects if the petition is granted.
Objection	To oppose some statement, claim, or procedure in a trial or other proceeding. For example, in guardianship proceedings, an interested person may object to (oppose) the appointment of a particular guardian or the claim that the respondent is incapacitated or the request that guardian should have certain authority.

Parens patriae	A Latin phrase meaning literally “parent of the country” and used to refer traditionally to the role of the sovereign as guardian of persons under legal disability, such as minor children or incapacitated adults.
Petition	A document filed to initiate a case, setting forth the alleged grounds for the court to take jurisdiction and asking the court to grant the petitioner’s request.
Petitioner	The person who files the petition, asking the court to do something. In guardianship proceedings, the petitioner is often, although not always, the person asking to be appointed as guardian.
(Durable) Power of attorney	A written document in which one person, as principal, appoints another as agent, and gives that agent authority to do certain specified acts or kinds of acts, on behalf of the principal. Completing a power of attorney document does not require a court proceeding. The principal should sign the document before a notary public.
Private, public, and protected records	Most records filed in the district courts and justice courts are "public" records, meaning that anyone who asks can view the record and make a copy of it. Many public records are available on the court's website. Some records are "private," meaning that only the parties, their lawyers, and a few others can view and copy the record. Less common are "protected" records, meaning also that only the parties, their lawyers and a few others can view and copy the record. Records in guardianship and conservatorship proceedings are private, except that the court’s orders and letters of appointment are public.
Protected person	The person in a guardianship proceeding who has been determined by the court to be a minor, or an adult deemed to be legally incapacitated and in need of a guardian. Also, the person in a conservatorship proceeding who has been determined by the court to be in need of a conservator.
Representative payee	If an agency, such as the Veteran’s Administration or the Social Security Administration, pays benefits to the protected person who has been found by the court to be incapacitated, the agency must appoint a representative payee to receive the payments. This appointment is separate from the court-appointed guardian and conservator. Any person wishing to serve as the representative payee must apply to the agency that provides the benefits. In most cases, the agency will appoint the court-appointed guardian or conservator as representative payee. However, the agency providing the benefits has the authority to appoint any person it chooses to be the protected person’s representative payee. Once appointed by the agency, the representative payee has the authority to receive and handle the benefits for the protected person.
Respondent	The person who responds to a petition. In a guardianship/conservatorship proceeding, the minor or the person alleged to be incapacitated and in need of protection.

Serving papers	Serving papers—also called service of process—means delivering a copy of the papers filed with the court to the other parties and interested persons. Court rules require that all parties and interested persons be served with a copy of all papers filed and be given time to respond.
Standard of proof	There are three standards of proof in most court proceedings: (1) Beyond a reasonable doubt (the highest standard) means that the evidence must be firmly convincing about the truth of the fact to be proved. This standard applies in all criminal and juvenile delinquency cases. (2) Preponderance of the evidence (the lowest standard) means that the evidence must show that the fact to be proved is more likely true than not true. This standard applies in most civil cases. (3) Clear and convincing evidence (a middle standard) means that the evidence must leave no serious doubt about the truth of the fact to be proved. This standard applies in some civil cases, including deciding whether a person is incapacitated.
Status report	The guardian's yearly report to the court on the well-being of the protected person. The annual report shows the protected person's status and care and alerts the court to any changes.
Statute	A law passed by the Utah state legislature.
Temporary guardian	Until the full hearing and order of the court, a temporary guardian is charged with the care and custody of the minor and must not permit the minor to be removed from the state. The authority of any permanent guardian previously appointed by the court is suspended so long as a temporary guardian has authority. A temporary guardian may be removed at any time, and must obey the court's orders.
Trust	A transaction in which the owner (called the trustor or settlor) of real property (land) or personal property (things) gives ownership to a trustee, to hold and to manage for the benefit of a third party (called the "beneficiary").
Trustee	A fiduciary in whom an estate, interest, or power is vested, under an express or implied agreement, to hold and to manage for the benefit of another.
Utah Code	The collection of all statutes enacted by the Utah legislature.
Utah Rules of Civil Procedure	The rules governing court procedures in all actions of a civil nature.
Venue	The county, city or geographical area in which a court with jurisdiction may hear and determine a case. A change of venue, that is, a change to a court in a different area, may be requested under some circumstances.



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