

RULE 5.040. NOTICE

(a) Formal Notice.

(1) When formal notice is given, a copy of the pleading or motion shall be served on interested persons, together with a notice requiring the person served to serve written defenses on the person giving notice within 20 days after service of the notice, exclusive of the day of service, and to file the original of the written defenses with the clerk of the court either before service or immediately thereafter, and notifying the person served that failure to serve written defenses as required may result in a judgment or order for the relief demanded in the pleading or motion, without further notice.

(2) After service of formal notice, informal notice of any hearing on the pleading or motion shall be served on interested persons, provided that if no written defense is served within 20 days after service of formal notice on an interested person, the pleading or motion may be considered ex parte as to that person, unless the court orders otherwise.

(3) Formal notice shall be served:

(A) by sending a copy by any commercial delivery service requiring a signed receipt or by any form of mail requiring a signed receipt as follows:

(i) to the attorney representing an interested person;
or

(ii) to an interested person who has filed a request for notice at the address given in the request for notice; or

(iii) to an incapacitated person or a person with a developmental disability to the person's usual place of abode and to the person's legal guardian, if any, at the guardian's usual place of abode or regular place of business; or, if there is no legal guardian, to the incapacitated person or person with a developmental disability at the person's usual place of abode and on the person, if any, having care or custody of the incapacitated person or person with a developmental disability at the usual place of abode or regular place of business of such custodian; or

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(iv) to a minor whose disabilities of nonage are not removed, by serving the persons designated to accept service of process on a minor under chapter 48, Florida Statutes; or

(v) on any other individual to the individual's usual place of abode or to the place where the individual regularly conducts business; or

(vi) on a corporation or other business entity to its registered office in Florida or its principal business office in Florida or, if neither is known after reasonable inquiry, to its last known address; or

(B) as provided in the Florida Rules of Civil Procedure for service of process; or

(C) as otherwise provided by Florida law for service of process.

(4) Service of formal notice pursuant to subdivision (a)(3)(A) shall be complete on receipt of the notice. Proof of service shall be by verified statement of the person giving the notice; and there shall be attached to the verified statement the signed receipt or other evidence satisfactory to the court that delivery was made to the addressee or the addressee's agent.

(5) If service of process is made pursuant to Florida law, proof of service shall be made as provided therein.

(b) Informal Notice. When informal notice of a petition or other proceeding is required or permitted, it shall be served as provided in rule 5.041.

(c) "Notice" Defined. In these rules, the Florida Probate Code, and the Florida Guardianship Law "notice" shall mean informal notice unless formal notice is specified.

(d) Formal Notice Optional. Formal notice may be given in lieu of informal notice at the option of the person giving notice unless the court orders otherwise. When formal notice is given in lieu of informal notice, formal notice shall be given to all interested persons entitled to notice. When formal notice is given in lieu of informal notice, that notice does not modify any time period otherwise specified by statute or these rules.

(e) In the Manner Provided for Service of Formal Notice. If a document is served in the manner provided for service of formal notice, service is completed on receipt of the document, and proof of service shall be in the manner set forth in subdivision (a)(4).

Committee Notes

Formal notice is the method of service used in probate proceedings and the method of service of process for obtaining jurisdiction over the person receiving the notice. “The manner provided for service of formal notice” is as provided in rule 5.040(a)(3).

Informal notice is the method of service of notice given to interested persons entitled to notice when formal notice is not given or required.

Reference in this rule to the terms “mail” or “mailing” refers to use of the United States Postal Service.

Rule History

1975 Revision: Implements section 731.301, Florida Statutes.

1977 Revision: Reference to elisor.

1980 Revision: Editorial changes. Clarification of time for filing defenses after formal notice. Authorizes court to give relief to delinquent respondent from ex parte status; relief from service on numerous persons; allows optional use of formal notice.

1984 Revision: Editorial changes. Eliminates deadline for filing as opposed to serving defenses after formal notice; defines procedure subsequent to service of defenses after formal notice; new requirements for service of formal notice on incompetents and corporations; defines when service of formal notice is deemed complete; provisions relating to method of service of informal notice transferred to new rules 5.041 and 5.042; eliminates waiver of notice by will.

1988 Revision: Editorial changes. Committee notes revised. Citation form changes in committee notes.

1991 Revision: Subdivision (b) amended to define informal notice more clearly.

1992 Revision: Editorial changes. Committee notes revised. Citation form changes in committee notes.

1996 Revision: Subdivision (a) amended to permit service of formal notice by commercial delivery service to conform to 1993 amendment to section 731.301(1), Florida Statutes. Editorial changes.

2001 Revision: Editorial changes in subdivision (a)(3)(A) to clarify requirements for service of formal notice.

2003 Revision: Committee notes revised.

2005 Revision: Subdivision (a)(3)(A) amended to delete requirement of court approval of commercial delivery service.

2006 Revision: Committee notes revised.

2007 Revision: Committee notes revised.

2007 Revision: New subdivision (a)(3)(A)(iv) inserted in response to *Cason ex rel. Saferight v. Hammock*, 908 So. 2d 512 (Fla. 5th DCA 2005), and subsequent subdivisions renumbered accordingly. Committee notes revised.

2008 Revision: Subdivision (a)(3)(A)(iii) revised to include “person with a developmental disability.” Committee notes revised.

2010 Revision: Subdivision (d) amended to clarify that the optional use of formal notice when only informal notice is required does not modify any time period otherwise specified by statute or rule. Committee notes revised.

2012 Revision: Subdivision (b) revised to reflect amendment to rule 5.041.

20__ Revision: Subdivision (e) created to specify when service in the manner provided for service of formal notice is completed. Committee notes revised.

Statutory References

§ 1.01(3), Fla. Stat. Definitions.

ch. 48, Fla. Stat. Process and service of process.

ch. 49, Fla. Stat. Constructive service of process.

§ 393.12, Fla. Stat. Capacity; appointment of guardian advocate.

§ 731.105, Fla. Stat. In rem proceeding.

§ 731.201(18), (22), Fla. Stat. General definitions.

§ 731.301, Fla. Stat. Notice.

§ 731.302, Fla. Stat. Waiver and consent by interested person.

§ 733.212, Fla. Stat. Notice of administration; filing of objections.

§ 733.2123, Fla. Stat. Adjudication before issuance of letters.
§ 733.502, Fla. Stat. Resignation of personal representative.
§ 733.613, Fla. Stat. Personal representative's right to sell real property.
§ 733.6175, Fla. Stat. Proceedings for review of employment of agents and compensation of personal representatives and employees of estate.
§ 733.901, Fla. Stat. Final discharge.
ch. 743, Fla. Stat. Disability of nonage of minors removed.
§ 744.106, Fla. Stat. Notice.
§ 744.301, Fla. Stat. Natural guardians.
§ 744.3085, Fla. Stat. Guardian advocates.
§ 744.3201, Fla. Stat. Petition to determine incapacity.
§ 744.331, Fla. Stat. Procedures to determine incapacity.
§ 744.3371, Fla. Stat. Notice of petition for appointment of guardian and hearing.
§ 744.441, Fla. Stat. Powers of guardian upon court approval.
§ 744.447, Fla. Stat. Petition for authorization to act.
§ 744.477, Fla. Stat. Proceedings for removal of a guardian.

Rule References

Fla. Prob. R. 5.025 Adversary proceedings.
Fla. Prob. R. 5.030 Attorneys.
Fla. Prob. R. 5.041 Service of pleadings and documents.
Fla. Prob. R. 5.042 Time.
Fla. Prob. R. 5.060 Request for notices and copies of pleadings.
Fla. Prob. R. 5.180 Waiver and consent.
Fla. Prob. R. 5.560 Petition for appointment of guardian of an incapacitated person.
Fla. Prob. R. 5.649 Guardian advocate.
Fla. Prob. R. 5.681 Restoration of rights of person with developmental disability.
Fla. R. Jud. Admin. 2.505 Attorneys.
Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.
Fla. R. Civ. P. 1.070 Process.
Fla. R. Civ. P. Form 1.902 Summons.

RULE 5.041. SERVICE OF PLEADINGS AND DOCUMENTS

Unless the court orders otherwise, every petition or motion for an order determining rights of an interested person, and every other pleading or document filed in the particular proceeding which is the subject matter of such petition or motion, except applications for witness subpoenas, shall be served on interested persons as set forth in Florida Rule of Judicial Administration 2.516 unless these rules, the Florida Probate Code, or the Florida Guardianship Law provides otherwise. No service need be made on interested persons against whom a default has been entered, or against whom the matter may otherwise proceed ex parte, unless a new or additional right or demand is asserted. For purposes of this rule an interested person shall be deemed a party under rule 2.516.

If the interested person is a minor whose disabilities of nonage are not removed, and who is not represented by an attorney, then service shall be on the persons designated to accept service of process on a minor under chapter 48, Florida Statutes.

Committee Notes

Derived from Florida Rule of Civil Procedure 1.080. Regulates the service of pleadings and ~~papers~~documents in proceedings on petitions or motions for determination of rights. It is not applicable to every pleading and ~~paper~~document served or filed in the administration of a guardianship or decedent's estate.

Rule History

1984 Revision: New rule. Subdivision (c) is same as former rule 5.040(d).

1988 Revision: Committee notes revised. Citation form changes in committee notes.

1992 Revision: Editorial changes. Committee notes revised. Citation form changes in committee notes.

1996 Revision: Subdivision (b) amended to allow service to be made by facsimile. Committee notes revised.

2000 Revision: Subdivision (b) amended to clarify requirements for service of pleadings and papers. Subdivision (e) amended to clarify date of filing. Editorial changes in subdivision (f).

2003 Revision: Committee notes revised.

2005 Revision: Changes in subdivisions (b) and (f) to clarify service requirements, and editorial changes in (e).

2006 Revision: Committee notes revised.

2007 Revision: Provisions regarding service on a minor added in subdivision (b) in response to *Cason ex rel. Saferight v. Hammock*, 908 So. 2d 512 (Fla. 5th DCA 2005). Committee notes revised.

2008 Revision: Committee notes revised.

2010 Revision: Committee notes revised.

2012 Revision: Portions of subdivision (b) and all of subdivisions (d), (e), (f), and (g) deleted in response to creation of Rule 2.516 of the Rules of Judicial Administration. Committee notes revised.

20__ Revision: Committee notes revised.

Statutory References

- ch. 39, Fla. Stat. Proceedings relating to children.
- ch. 48, Fla. Stat. Process and service of process.
- ch. 61, Fla. Stat. Dissolution of marriage; support; time-sharing.
- ch. 63, Fla. Stat. Adoption.
- § 393.12, Fla. Stat. Capacity; appointment of guardian advocate.
- § 731.201, Fla. Stat. General definitions.
- § 731.301, Fla. Stat. Notice.
- § 733.212, Fla. Stat. Notice of administration; filing of objections.
- § 733.2123, Fla. Stat. Adjudication before issuance of letters.
- § 733.705(2), (4), Fla. Stat. Payment of and objection to claims.
- ch. 743, Fla. Stat. Disability of nonage of minors removed.
- § 744.3085, Fla. Stat. Guardian advocates.
- § 744.3201, Fla. Stat. Petition to determine incapacity.
- § 744.331, Fla. Stat. Procedures to determine incapacity.
- § 744.3371, Fla. Stat. Notice of petition for appointment of guardian and hearing.
- § 744.447, Fla. Stat. Petition for authorization to act.
- ch. 751, Fla. Stat. Temporary custody of minor children by extended family.

Rule References

- Fla. Prob. R. 5.020 Pleadings; verification; motions.
- Fla. Prob. R. 5.025 Adversary proceedings.

Fla. Prob. R. 5.030 Attorneys.
Fla. Prob. R. 5.040 Notice.
Fla. Prob. R. 5.042 Time.
Fla. Prob. R. 5.150(c) Order requiring accounting.
Fla. Prob. R. 5.180 Waiver and consent.
Fla. Prob. R. 5.240(a) Notice of administration.
Fla. Prob. R. 5.340(d) Inventory.
Fla. Prob. R. 5.550 Petition to determine incapacity.
Fla. Prob. R. 5.560 Petition for appointment of guardian of an incapacitated person.
Fla. Prob. R. 5.649 Guardian advocate.
Fla. Prob. R. 5.681 Restoration of rights of person with developmental disability.
Fla. R. Civ. P. 1.080 Service of pleadings and ~~papers~~documents.
Fla. R. Jud. Admin. 2.505 Attorneys.
Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

RULE 5.042. TIME

(a) Computation. Computation of time shall be governed by Florida Rule of Judicial Administration 2.514.

(b) Enlargement. When an act is required or allowed to be done at or within a specified time by these rules, by order of court, or by notice given thereunder, for cause shown the court at any time in its discretion

(1) with or without notice, may order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order; or

(2) on motion made and notice, after the expiration of the specified period, may permit the act to be done when failure to act was the result of excusable neglect. The court under this rule may not extend the time for serving a motion for rehearing or to enlarge any period of time governed by the Florida Rules of Appellate Procedure.

(c) Service for Hearings. A copy of any written petition or motion which may not be heard ex parte and a copy of the notice of the hearing thereon shall be served a reasonable time before the time specified for the hearing.

(d) Additional Time After Service by Mail or E-mail. ~~Except when serving formal notice, or when serving a motion, pleading, or other document in the manner provided for service of formal notice,~~ Florida Rule of Judicial Administration 2.514(b) shall apply to the computation of time following service, except for documents served by formal notice or in the manner provided for service of formal notice.

Committee Notes

This rule is derived from Florida Rule of Civil Procedure 1.090.

Rule History

1984 Revision: New rule.

1988 Revision: Editorial changes in (a) and (b). Subdivision (a) enlarged to include closing of the clerk's office as a legal holiday. In *Clara P. Diamond, Inc. v. Tam-Bay Realty, Inc.*, 462 So. 2d 1168 (Fla. 2d DCA 1984), the Second District Court of Appeal suggested that Florida Rule of Civil Procedure 1.090(b) be

clarified to leave no question that the court may not extend the time for rehearing, appeal, or petition for certiorari regardless of whether a request to enlarge the time therefor was made before the expiration of the time allowed. Because the format of rule 5.042(b) was substantially the same as the format of rule 1.090(b), subdivision (b) is amended to conform for the sake of clarity. Committee notes revised.

1992 Revision: Editorial changes. Committee notes revised. Citation form changes in committee notes.

2003 Revision: Committee notes revised.

2005 Revision: Subdivision (d) amended to clarify exception to mailing rule for service of formal notice and service in the manner provided for service of formal notice. Committee notes revised.

2008 Revision: Committee notes revised.

2012 Revision: Subdivision (a) revised to refer to Rule 2.514 and delete duplicative provisions. Subdivision (d) revised to incorporate service by e-mail and the filing and service of documents, rather than papers. Committee notes revised.

20 Revision: Subdivision (d) revised to clarify that Florida Rule of Judicial Administration 2.514(b) does not apply if a document is served by formal notice or in the manner provided for service of formal notice. Committee notes revised.

Statutory References

- § 393.12, Fla. Stat. Capacity; appointment of guardian advocate.
- § 683.01, Fla. Stat. Legal holidays.
- § 731.301, Fla. Stat. Notice.
- § 732.107, Fla. Stat. Escheat.
- § 732.2135, Fla. Stat. Time of election; extensions; withdrawal.
- § 732.402, Fla. Stat. Exempt property.
- § 732.901, Fla. Stat. Production of wills.
- § 733.104, Fla. Stat. Suspension of statutes of limitation in favor of the personal representative.
- § 733.212, Fla. Stat. Notice of administration; filing of objections.
- § 733.2121, Fla. Stat. Notice to creditors; filing of claims.
- § 733.701, Fla. Stat. Notifying creditors.
- § 733.702, Fla. Stat. Limitations on presentation of claims.
- § 733.705, Fla. Stat. Payment of and objection to claims.
- § 733.710, Fla. Stat. Limitations on claims against estates.

§ 733.816, Fla. Stat. Disposition of unclaimed property held by personal representatives.

§ 744.3085, Fla. Stat. Guardian advocates.

Rule References

Fla. Prob. R. 5.040(a)(1) Notice.

Fla. Prob. R. 5.150 Order requiring accounting.

Fla. Prob. R. 5.240 Notice of administration.

Fla. Prob. R. 5.241 Notice to creditors.

Fla. Prob. R. 5.340(a)–(b) Inventory.

Fla. Prob. R. 5.345 Accountings other than personal representatives' final accountings.

Fla. Prob. R. 5.395 Notice of federal estate tax return.

Fla. Prob. R. 5.400 Distribution and discharge.

Fla. Prob. R. 5.649 Guardian advocate.

Fla. Prob. R. 5.681 Restoration of rights of person with developmental disability.

Fla. Prob. R. 5.700 Objection to guardianship reports.

Fla. R. Civ. P. 1.090 Time.

Fla. R. Jud. Admin. 2.514 Computing and extending time.

RULE 5.080. DISCOVERY, AND SUBPOENA, AND TAKING TESTIMONY

(a) Adoption of Civil Rules. The following Florida Rules of Civil Procedure shall apply in all probate and guardianship proceedings:

- (1) Rule 1.280, general provisions governing discovery.
- (2) Rule 1.290, depositions before action or pending appeal.
- (3) Rule 1.300, persons before whom depositions may be taken.
- (4) Rule 1.310, depositions upon oral examination.
- (5) Rule 1.320, depositions upon written questions.
- (6) Rule 1.330, use of depositions in court proceedings.
- (7) Rule 1.340, interrogatories to parties.
- (8) Rule 1.350, production of documents and things and entry upon land for inspection and other purposes.
- (9) Rule 1.351, production of documents and things without deposition.
- (10) Rule 1.360, examination of persons.
- (11) Rule 1.370, requests for admission.
- (12) Rule 1.380, failure to make discovery; sanctions.
- (13) Rule 1.390, depositions of expert witnesses.
- (14) Rule 1.410, subpoena.
- (15) Rule 1.451, taking testimony.

(b) Limitations and Costs. In order to conserve the assets of the estate, the court has broad discretion to limit the scope and the place and manner of the discovery and to assess the costs, including attorneys' fees, of the discovery against the party making it or against 1 or more of the beneficiaries of the estate or

against the ward in such proportions as the court determines, considering, among other factors, the benefit derived therefrom.

(c) Application. It is not necessary to have an adversary proceeding under rule 5.025 to utilize the rules adopted in subdivision (a) above. Any interested person may utilize the rules adopted in subdivision (a).

Committee Notes

Subdivision (b) is not intended to result in the assessment of costs, including attorney's fees, in every instance in which discovery is sought. Subdivision (c) is not intended to overrule the holdings in *In re Estate of Shaw*, 340 So. 2d 491 (Fla. 3d DCA 1976), and *In re Estate of Posner*, 492 So. 2d 1093 (Fla. 3d DCA 1986).

Rule History

1975 Revision: This rule is the same as prior rule 5.080, broadened to include guardianships and intended to clearly permit the use of discovery practices in nonadversary probate and guardianship matters.

1977 Revision: Editorial change in citation form in committee note.

1984 Revision: Florida Rules of Civil Procedure 1.290, 1.300, 1.351, and 1.410 have been added.

1988 Revision: Subdivision (a)(15) deleted as duplicative of rule 5.070 Subpoena. Editorial change in (b). Citation form change in committee notes.

1992 Revision: Editorial changes. Committee notes revised. Citation form changes in committee notes.

1996 Revision: Reference to rule 1.400 eliminated because of deletion of that rule from the Florida Rules of Civil Procedure. Editorial change.

2002 Revision: Reference to rule 1.410 transferred to subdivision (a) from former rule 5.070. Subdivision (b) amended to give court discretion to assess attorneys' fees. Subdivision (c) added. Committee notes revised.

2006 Revision: Committee notes revised.

2007 Revision: Committee notes revised.

20 Revision: Florida Rule of Civil Procedure 1.451 has been added to subdivision (a). Committee notes revised.

Statutory References

§ 731.201(23), Fla. Stat. General definitions.

§ 733.106, Fla. Stat. Costs and attorney's fees.

§ 744.105, Fla. Stat. Costs.

§ 744.108, Fla. Stat. Guardian's and attorney's fees and expenses.

Rule References

Fla. Prob. R. 5.025 Adversary proceedings.

Fla. R. Jud. Admin. 2.535 Court reporting.

RULE 5.345. ACCOUNTINGS OTHER THAN PERSONAL REPRESENTATIVES' FINAL ACCOUNTINGS

(a) Applicability and Accounting Periods. This rule applies to the interim accounting of any fiduciary of a probate estate, the accounting of a personal representative who has resigned or been removed, and the accounting of a curator upon the appointment of a successor fiduciary. The fiduciary may elect to file an interim accounting at any time, or the court may require an interim or supplemental accounting. The ending date of the accounting period for any accounting to which this rule applies shall be as follows:

(1) For an interim accounting, any date selected by the fiduciary, including a fiscal or calendar year, or as may be determined by the court.

(2) For the accounting of a personal representative who has resigned or has been removed, the date the personal representative's letters are revoked.

(3) For a curator who has been replaced by a successor fiduciary, the date of appointment of the successor fiduciary.

(b) Notice of Filing. Notice of filing and a copy of any accounting to which this rule applies shall be served on all interested persons. The notice shall state that objections to the accounting must be filed within 30 days from the date of service of notice.

(c) Objection. Any interested person may file an objection to any accounting to which this rule applies within 30 days from the date of service of notice on that person. Any objection not filed within 30 days from the date of service shall be deemed abandoned. An objection shall be in writing and shall state with particularity the item or items to which the objection is directed and the grounds upon which the objection is based.

(d) Service of Objections. The objecting party shall serve a copy of the objection on the fiduciary filing the accounting and other interested persons.

(e) Disposition of Objections and Approval of Accountings. The court shall sustain or overrule any objection filed as provided in this rule. If no objection is filed, any accounting to which this rule applies shall be deemed approved 30 days from the date of service of the accounting on interested persons.

(f) Substantiating PapersDocuments. On reasonable written request, the fiduciary shall permit an interested person to examine papersdocuments substantiating items in any accounting to which this rule applies.

(g) Supplemental Accountings. The court, on its own motion or on that of any interested person, may require a fiduciary who has been replaced by a successor fiduciary to file a supplemental accounting, the beginning date of which shall be the ending date of the accounting as specified in subdivision (a) of this rule and the ending date of which is the date of delivery of all of the estate's property to the successor fiduciary, or such other date as the court may order.

(h) Verification. All accountings shall be verified by the fiduciary filing the accounting.

Committee Notes

The personal representative is required to file a final accounting when administration is complete, unless filing is waived by interested persons. Additionally, a fiduciary of a probate estate may elect, but is not required, to file interim accountings at any time. An accounting is required for resigning or removed fiduciaries. The filing, notice, objection, and approval procedure is similar to that for final accounts.

Rule History

1977 Revision: Change in (a) to authorize selection of fiscal year.

1980 Revision: Change in (d) of prior rule to require the notice to state that the basis for an objection is necessary. Change in (e) of prior rule to require any person filing an objection to set forth the basis of such objection.

1984 Revision: Extensive changes. Committee notes revised.

1988 Revision: Citation form change in committee notes.

1992 Revision: Editorial change. Committee notes revised. Citation form changes in committee notes.

2002 Revision: Implements procedures for interim accountings and accountings by resigning or removed fiduciaries. Committee notes revised.

2003 Revision: Committee notes revised.

2005 Revision: Verification requirement added as new (h). Committee notes

revised.

20 Revision: Subdivision (f) revised to substitute “documents” for “papers.”

Statutory References

§ 733.3101, Fla. Stat. Personal representative not qualified.

§ 733.501, Fla. Stat. Curators.

§ 733.5035, Fla. Stat. Surrender of assets after resignation.

§ 733.5036, Fla. Stat. Accounting and discharge following resignation.

§ 733.508, Fla. Stat. Accounting and discharge of removed personal representatives upon removal.

§ 733.509, Fla. Stat. Surrender of assets upon removal.

ch. 738, Fla. Stat. Principal and income.

Rule References

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.122 Curators.

Fla. Prob. R. 5.150 Order requiring accounting.

Fla. Prob. R. 5.330 Execution by personal representative.

Fla. Prob. R. 5.346 Fiduciary accounting.

Fla. Prob. R. 5.430 Resignation of personal representative.

Fla. Prob. R. 5.440 Proceedings for removal.

RULE 5.346. FIDUCIARY ACCOUNTING

(a) Contents. A fiduciary accounting, other than a guardian accounting, shall include:

- (1) all cash and property transactions since the date of the last accounting or, if none, from the commencement of administration, and
- (2) a schedule of assets at the end of the accounting period.

(b) Accounting Standards. The following standards are required for the accounting of all transactions occurring on or after January 1, 1994:

(1) Accountings shall be stated in a manner that is understandable to persons who are not familiar with practices and terminology peculiar to the administration of estates and trusts.

(2) The accounting shall begin with a concise summary of its purpose and content.

(3) The accounting shall contain sufficient information to put interested persons on notice as to all significant transactions affecting administration during the accounting period.

(4) The accounting shall contain 2 values in the schedule of assets at the end of the accounting period, the asset acquisition value or carrying value, and estimated current value.

(5) Gains and losses incurred during the accounting period shall be shown separately in the same schedule.

(6) The accounting shall show significant transactions that do not affect the amount for which the fiduciary is accountable.

(c) Accounting Format. A model format for an accounting is attached to this rule as Appendix A.

(d) Verification. All accountings shall be verified by the fiduciary filing the accounting.

Committee Notes

This rule substantially adopts the Uniform Fiduciary Accounting Principles and Model Formats adopted by the Committee on National Fiduciary Accounting Standards of the American Bar Association: Section of Real Property, Probate and Trust Law, the American College of Probate Counsel, the American Bankers Association: Trust Division, and other organizations.

Accountings shall also comply with the Florida principal and income law, chapter 738, Florida Statutes.

Attached as Appendix B to this rule are an explanation and commentary for each of the foregoing standards, which shall be considered as a Committee Note to this rule.

Accountings that substantially conform to the model formats are acceptable. The model accounting format included in Appendix A is only a suggested form.

Rule History

1988 Revision: New rule.

1992 Revision: Editorial changes throughout. Rule changed to require compliance with the Uniform Fiduciary Accounting Principles and Model Formats for accounting of all transactions occurring on or after January 1, 1994. Committee notes revised. Citation form changes in committee notes.

1996 Revision: Committee notes revised.

1999 Revision: Committee notes revised to correct rule reference and to reflect formatting changes in accounting formats.

2002 Revision: Subdivisions (a) and (b) amended to clarify contents of accounting. Committee notes revised.

2003 Revision: Committee notes revised.

2005 Revision: Verification requirement added as new (d). Committee notes revised.

2007 Revision: Committee notes revised.

2010 Revision: Committee notes revised.

20__ Revision: Subdivision (a) amended to clarify that this rule does not apply to guardian accounting. Committee notes revised.

Statutory References

- § 733.501, Fla. Stat. Curators.
- § 733.5036, Fla. Stat. Accounting and discharge following resignation.
- § 733.508, Fla. Stat. Accounting and discharge of removed personal representatives upon removal.
- § 733.602(1), Fla. Stat. General duties.
- § 733.612(18), Fla. Stat. Transactions authorized for the personal representative; exceptions.
- ch. 738, Fla. Stat. Principal and income.

Rule References

- Fla. Prob. R. 5.020 Pleadings; verification; motions.
- Fla. Prob. R. 5.040 Notice.
- Fla. Prob. R. 5.122 Curators.
- Fla. Prob. R. 5.180 Waiver and consent.
- Fla. Prob. R. 5.330 Execution by personal representative.
- Fla. Prob. R. 5.345 Accountings other than personal representatives' final accountings.
- Fla. Prob. R. 5.400 Distribution and discharge.
- Fla. Prob. R. 5.430 Resignation of personal representative.
- Fla. Prob. R. 5.440 Proceedings for removal.

APPENDIX A

[Appendix begins on next page]

IN THE CIRCUIT COURT FOR _____ COUNTY, FLORIDA

IN RE: ESTATE OF

PROBATE DIVISION

Deceased.

File Number
Division

_____ ACCOUNTING OF PERSONAL REPRESENTATIVE(S)

From: _____, _____, Through: _____, _____

The purpose of this accounting is to acquaint all interested persons with the transactions that have occurred during the period covered by the accounting and the assets that remain on hand. It consists of a SUMMARY sheet and Schedule A showing all Receipts, Schedule B showing all Disbursements, Schedule C showing all Distributions, Schedule D showing all Capital Transactions and Adjustments (the effect of which are also reflected in other schedules, if appropriate), and Schedule E showing assets on hand at the end of the accounting period.

It is important that this accounting be carefully examined. Requests for additional information and any questions should be addressed to the personal representative(s) or the attorneys for the personal representative(s), the names and addresses of whom are set forth below.

Under penalties of perjury, the undersigned personal representative(s) declare(s) that I (we) have read and examined this accounting and that the facts and figures set forth in the Summary and the attached Schedules are true, to the best of my (our) knowledge and belief, and that it is a complete report of all cash and property transactions and of all receipts and disbursements by me (us) as personal representative(s) of the estate of _____ deceased, from _____, _____ through _____, _____.

Signed on _____, _____.

Attorney for Personal Representative:

Personal Representative:

Attorney

Name

Florida Bar No. _____

(address)

(address)

Telephone: _____

[Print or Type Names Under All
Signature Lines]

IN THE CIRCUIT COURT FOR _____ COUNTY, FLORIDA

IN RE: ESTATE OF

PROBATE DIVISION

File Number

Deceased.

Division

_____ ACCOUNTING OF PERSONAL REPRESENTATIVE(S)

From: _____, _____, Through: _____, _____

SUMMARY

	<u>Income</u>	<u>Principal</u>	<u>Totals</u>
I. <u>Starting Balance</u> Assets per Inventory or on Hand at Close of Last Accounting Period	_____	_____	_____
II. <u>Receipts</u> Schedule A:	_____	_____	_____
III. <u>Disbursements</u> Schedule B:	_____	_____	_____
IV. <u>Distributions</u> Schedule C:	_____	_____	_____
V. <u>Capital Transactions and Adjustments</u> Schedule D: Net Gain or (Loss)		\$ _____	_____
VI. <u>Assets on Hand at Close of Accounting Period</u> Schedule E: Cash and Other Assets	_____	_____	_____

NOTE: Refer to Fla. Prob. R. 5.330(b), 5.345, 5.346, and 5.400.

Also see Fiduciary Accountings, Chapter 12 of Practice Under Florida Probate Code (Fla. Bar CLE).

Entries on Summary are to be taken from totals on Schedules A, B, C, D and E.

The Summary and Schedules A, B, C, D and E are to constitute the full accounting. Every transaction occurring during the accounting period should be reflected on the Schedules.

All purchases and sales, all adjustments to the inventory or carrying value of any asset, and any other changes in the assets (such as stock splits) should be described on Schedule D.

The amount in the “Total” column for Item VI must agree with the total inventory or adjusted carrying value of all assets on hand at the close of the accounting period on Schedule E.

_____ ACCOUNTING OF PERSONAL REPRESENTATIVE,
ESTATE OF _____

From: _____, _____, Through: _____,

SCHEDULE C

Distributions

Date	Brief Description of Items	Income	Principal
<hr/> <hr/>			

NOTE: Schedule C should reflect only those items or amounts distributed to beneficiaries during the accounting period. Assets distributed should be shown at their inventory or adjusted carrying values. Classification of distributions as income or principal is to be in accordance with the provisions of the Florida Principal and Income Act, Chapter 738, Florida Statutes.

Entries involving adjustments to the carrying values of assets are to be shown on Schedule D, and not on Schedule C.

_____ ACCOUNTING OF PERSONAL REPRESENTATIVE,
ESTATE OF _____

From: _____, _____, Through: _____,

SCHEDULE D

Capital Transactions and Adjustments

(Does not include distributions. Distributions are shown on Schedule C.)

Date	Brief Description of Transactions	Net Gain	Net Loss
------	-----------------------------------	----------	----------

TOTAL NET GAINS AND LOSSES

NET GAIN OR (LOSS)

NOTE: Schedule D should reflect all purchases and sales of assets and any adjustments to the carrying values of any assets.

Entries reflecting sales should show the inventory or adjusted carrying values, the costs and expenses of the sale, and the net proceeds received. The net gain or loss should be extended in the appropriate column on the right side of Schedule D.

Entries reflecting purchases should reflect the purchase price, any expenses of purchase or other adjustments to the purchase price, and the total amount paid. Presumably no gain or loss would be shown for purchases.

Entries reflecting adjustments in capital assets should explain the change (such as a stock split) and the net gain or loss should be shown in the appropriate column on the right side of Schedule D.

The NET gain or loss should be entered in the Principal column of the Summary.

_____ ACCOUNTING OF PERSONAL REPRESENTATIVE,
ESTATE OF _____

From: _____, _____, Through: _____,

SCHEDULE E

Assets on Hand at Close of Accounting Period

(Indicate where held and legal description, certificate numbers, or other identification.)

	Estimated Current Value	Carrying Value
--	----------------------------	-------------------

ASSETS OTHER THAN CASH:

OTHER ASSETS TOTAL

CASH:

CASH TOTAL

TOTAL ASSETS (must agree with the Total for Item VI on Summary)

NOTE: Schedule E should be a complete list of all assets on hand reflecting inventory values for each item, adjusted in accordance with any appropriate entries on Schedule D.

Current market values for any assets that are known to be different from the inventory or carrying values as of the close of the accounting period should be shown in the column marked "Current Value." The total inventory or adjusted carrying value (not Current Value) must agree with the Total for Item VI on Summary.

APPENDIX B

UNIFORM FIDUCIARY ACCOUNTING PRINCIPLES

I. ACCOUNTS SHOULD BE STATED IN A MANNER THAT IS UNDERSTANDABLE BY PERSONS WHO ARE NOT FAMILIAR WITH PRACTICES AND TERMINOLOGY PECULIAR TO THE ADMINISTRATION OF ESTATES AND TRUSTS.

Commentary: In order for an account to fulfill its basic function of communication, it is essential that it be stated in a manner that recognizes that the interested parties are not usually familiar with fiduciary accounts. It is neither practical nor desirable to require that accounts be tailored to meet individual disabilities of particular parties but any account should be capable of being understood by a person of average intelligence, literate in English, and familiar with basic financial terms who has read it with care and attention.

Problems arising from terminology or style are usually a reflection of the fact that people who become versed in a particular form of practice tend to forget that terms which are familiar and useful to them may convey nothing to someone else or may even be affirmatively misleading. For example, the terms “debit” and “credit” are generally incomprehensible to people with no knowledge of bookkeeping and many people who are familiar with them in other contexts would assume that in the context of fiduciary accounting, the receipt of an item is a “credit” to the fund rather than a “debit” to the fiduciary.

While the need for concise presentation makes a certain amount of abbreviation both acceptable and necessary, uncommon abbreviation of matters essential to an understanding of the account should be avoided or explained.

No position is taken for or against the use of direct print-outs from machine accounting systems. The quality of the accounts produced by these systems varies widely in the extent to which they can be understood by persons who are not familiar with them. To endorse or object to a direct print-out because it is produced by machine from previously stored data would miss the essential point by focusing attention upon the manner of preparation rather than the product.

II. A FIDUCIARY ACCOUNT SHALL BEGIN WITH A CONCISE SUMMARY OF ITS PURPOSE AND CONTENT.

Commentary: Very few people can be expected to pay much attention to a document unless they have some understanding of its general purpose and its significance to them. Even with such an understanding, impressions derived from the first page or two will often determine whether the rest is read. The use that is made of these pages is therefore of particular significance.

The cover page should disclose the nature and function of the account. While a complete explanation of the significance of the account and the effect of its presentation upon the rights of the parties is obviously impractical for inclusion at this point, there should be at least a brief statement identifying the fiduciary and the subject matter, noting the importance of examining the account and giving an address where more information can be obtained.

It is assumed that the parties would also have enough information from other sources to understand the nature of their relationship to the fund (e.g., residuary legatee, life tenant, remainderman), the function of the account, and the obligation of the fiduciary to supply further relevant information upon request. It is also assumed that notice will be given of any significant procedural considerations such as limitation on the time within which objections must be presented. This would normally be provided by prior or contemporaneous memoranda, correspondence, or discussions.

A summary of the account shall also be presented at the outset. This summary, organized as a table of contents, shall indicate the order of the details presented in the account and shall show separate totals for the aggregate of the assets on hand at the beginning of the accounting period; transactions during the period; and the assets remaining on hand at the end of the period. Each entry in the summary shall be supported by a schedule in the account that provides the details on which the summary is based.

III. A FIDUCIARY ACCOUNT SHALL CONTAIN SUFFICIENT INFORMATION TO PUT THE INTERESTED PARTIES ON NOTICE AS TO ALL SIGNIFICANT TRANSACTIONS AFFECTING ADMINISTRATION DURING THE ACCOUNTING PERIOD.

Commentary: The presentation of the information account shall allow an interested party to follow the progress of the fiduciary's administration of assets during the accounting period.

An account is not complete if it does not itemize, or make reference to, assets on hand at the beginning of the accounting period.

Illustration:

3.1 The first account for a decedent's estate or a trust may detail the items received by the fiduciary and for which the fiduciary is responsible. It may refer to the total amount of an inventory filed elsewhere or assets described in a schedule attached to a trust agreement.

Instead of retyping the complete list of assets in the opening balance, the preparer may prefer to attach as an exhibit a copy of the inventory, closing balance from the last account, etc., as appropriate, or may refer to them if previously provided to the interested parties who will receive it.

Transactions shall be described in sufficient detail to give interested parties notice of their purpose and effect. It should be recognized that too much detail may be counterproductive to making the account understandable. In accounts covering long periods or dealing with extensive assets, it is usually desirable to consolidate information. For instance, where income from a number of securities is being accounted for over a long period of time, a statement of the total dividends received on each security with appropriate indication of changes in the number of shares held will be more readily understandable and easier to check for completeness than a chronological listing of all dividends received.

Although detail should generally be avoided for routine transactions, it will often be necessary to proper understanding of an event that is somewhat out of the ordinary.

Illustrations:

3.2 Extraordinary appraisal costs should be shown separately and explained.

3.3 Interest and penalties in connection with late filing of tax returns should be shown separately and explained.

3.4 An extraordinary allocation between principal and income such as apportionment of proceeds of property acquired on foreclosure should be separately stated and explained.

3.5 Computation of a formula marital deduction gift involving non-probate assets should be explained.

IV. A FIDUCIARY ACCOUNT SHALL CONTAIN TWO VALUES, THE ASSET ACQUISITION VALUE OR CARRYING VALUE, AND CURRENT VALUE.

Commentary: In order for transactions to be reported on a consistent basis, an appropriate carrying value for assets must be chosen and employed consistently.

The carrying value of an asset should reflect its value at the time it is acquired by the fiduciary (or a predecessor fiduciary). When such a value is not precisely determinable, the figure used should reflect a thoughtful decision by the fiduciary. For assets owned by a decedent, inventory values or estate tax values — generally reflective of date of death — would be appropriate. Assets received in kind by a trustee from a settlor of an inter vivos trust should be carried at their value at the time of receipt. For assets purchased during the administration of the fund, cost would normally be used. Use of Federal income tax basis for carrying value is acceptable when basis is reasonably representative of real values at the time of acquisition. Use of tax basis as a carrying value under other circumstances could be affirmatively misleading to beneficiaries and therefore is not appropriate.

In the Model Account, carrying value is referred to as “fiduciary acquisition value.” The Model Account establishes the initial carrying value of assets as their value at date of death for inventoried assets, date of receipt for subsequent receipts, and cost for investments.

Carrying value would not normally be adjusted for depreciation.

Except for adjustments that occur normally under the accounting system in use, carrying values should generally be continued unchanged through successive accounts and assets should not be arbitrarily “written up” or “written down.” In some circumstances, however, with proper disclosure and explanation, carrying value may be adjusted.

Illustrations:

4.1 Carrying values based on date of death may be adjusted to reflect changes on audit of estate or inheritance tax returns.

4.2 Where appropriate under applicable local law, a successor fiduciary may adjust the carrying value of assets to reflect values at the start of that fiduciary's administration.

4.3 Assets received in kind in satisfaction of a pecuniary legacy should be carried at the value used for purposes of distribution.

Though essential for accounting purposes, carrying values are commonly misunderstood by laypersons as being a representation of actual values. To avoid this, the account should include both current values and carrying values.

The value of assets at the beginning and ending of each accounting period is necessary information for the evaluation of investment performance. Therefore, the account should show, or make reference to, current values at the start of the period for all assets whose carrying values were established in a prior accounting period.

Illustrations:

4.4 The opening balance of the first account of a testamentary trustee will usually contain assets received in kind from the executor. Unless the carrying value was written up at the time of distribution (e.g., 4.2 or 4.3 supra) these assets will be carried at a value established during the executor's administration. The current value at the beginning of the accounting period should also be shown.

4.5 An executor's first account will normally carry assets at inventory (date of death) values or costs. No separate listing of current values at the beginning of the accounting period is necessary.

Current values should also be shown for all assets on hand at the close of the accounting period. The date on which current values are determined shall be stated and shall be the last day of the accounting period, or a date as close thereto as reasonably possible.

Current values should be shown in a column parallel to the column of carrying values. Both columns should be totalled.

In determining current values for assets for which there is no readily ascertainable current value, the source of the value stated in the account shall be

explained. The fiduciary shall make a good faith effort to determine realistic values but should not be expected to incur expenses for appraisals or similar costs when there is no reason to expect that the resulting information will be of practical consequence to the administration of the estate or the protection of the interests of the parties.

Illustrations:

4.6 When an asset is held under circumstances that make it clear that it will not be sold (e.g., a residence held for use of a beneficiary) the fiduciary's estimate of value would be acceptable in lieu of an appraisal.

4.7 Considerations such as a pending tax audit or offer of the property for sale may indicate the advisability of not publishing the fiduciary's best estimate of value. In such circumstances, a statement that value was fixed by some method such as "per company books," "formula under buy-sell agreement," or "300% of assessed value" would be acceptable, but the fiduciary would be expected to provide further information to interested parties upon request.

V. GAINS AND LOSSES INCURRED DURING THE ACCOUNTING PERIOD SHALL BE SHOWN SEPARATELY IN THE SAME SCHEDULE.

Commentary: Each transaction involving the sale or other disposition of securities during the accounting period shall be shown as a separate item in one combined schedule of the account indicating the transaction, date, explanation, and any gain or loss.

Although gains and losses from the sale of securities can be shown separately in accounts, the preferred method of presentation is to present this information in a single schedule. Such a presentation provides the most meaningful description of investment performance and will tend to clarify relationships between gains and losses that are deliberately realized at the same time.

VI. THE ACCOUNT SHALL SHOW SIGNIFICANT TRANSACTIONS THAT DO NOT AFFECT THE AMOUNT FOR WHICH THE FIDUCIARY IS ACCOUNTABLE.

Commentary: Transactions such as the purchase of an investment, receipt of a stock split, or change of a corporate name do not alter the total fund for which a fiduciary is accountable but must be shown in order to permit analysis and an

understanding of the administration of the fund. These can be best shown in information schedules.

One schedule should list all investments made during the accounting period. It should include those subsequently sold as well as those still on hand. Frequently the same money will be used for a series of investments. Therefore, the schedule should not be totalled in order to avoid giving an exaggerated idea of the size of the fund.

A second schedule (entitled “Changes in Investment Holdings” in the Model Account) should show all transactions affecting a particular security holding, such as purchase of additional shares, partial sales, stock splits, change of corporate name, divestment distributions, etc. This schedule, similar to a ledger account for each holding, will reconcile opening and closing entries for particular holdings, explain changes in carrying value, and avoid extensive searches through the account for information scattered among other schedules.

RULE 5.550. PETITION TO DETERMINE INCAPACITY

(a) Contents. The petition to determine incapacity shall be verified by the petitioner and shall state:

- (1) the name, age, and present address of the petitioner and the petitioner's relationship to the alleged incapacitated person;
- (2) the name, age, county of residence, and present address of the alleged incapacitated person, and specify the primary language spoken by the alleged incapacitated person, if known;
- (3) that the petitioner believes the alleged incapacitated person to be incapacitated, the facts on which such belief is based, and the names and addresses of all persons known to the petitioner who have knowledge of such facts through personal observation;
- (4) the name and address of the alleged incapacitated person's attending or family physician, if known;
- (5) which rights the alleged incapacitated person is incapable of exercising to the best of the petitioner's knowledge; and, if the petitioner has insufficient experience to make that judgment, the petitioner shall so indicate;
- (6) whether plenary or limited guardianship is sought for the alleged incapacitated person; ~~and~~
- (7) the names, relationships, and addresses of the next of kin of the alleged incapacitated person, specifying the year of birth of any who are minors, to the extent known by the petitioner; and
- (8) whether there are possible alternatives to guardianship known to the petitioner, including, but not limited to, trust agreements, powers of attorney, or advance directives.

(b) Notice.

(1) Contents. The notice of filing the petition to determine incapacity shall state:

(A) the time and place of the hearing to inquire into the capacity of the alleged incapacitated person;

(B) that an attorney has been appointed to represent such person; and

(C) that if the court determines that such person is incapable of exercising any of the rights enumerated in the petition a guardian may be appointed.

(2) Service on Alleged Incapacitated Person. The notice and a copy of the petition to determine incapacity shall be personally served by an elisor appointed by the court, who may be the court appointed counsel for the alleged incapacitated person. The elisor shall read the notice to the alleged incapacitated person, but need not read the petition. A return of service shall be filed by the elisor certifying that the notice and petition have been served on and the notice read to the alleged incapacitated person. No responsive pleading is required and no default may be entered for failure to file a responsive pleading. The allegations of the petition are deemed denied.

(3) Service on Others. A copy of the petition and the notice shall also be served on counsel for the alleged incapacitated person, and on all next of kin.

(c) Verified Statement. An interested person may file a verified statement that shall state:

(1) that he or she has a good faith belief that the alleged incapacitated person's trust, trust amendment, or durable power of attorney is invalid; and

(2) facts constituting a reasonable basis for that belief.

(d) Order. When an order determines that a person is incapable of exercising delegable rights, it shall specify whether there is an alternative to guardianship that will sufficiently address the problems of the incapacitated person.

Committee Notes

Rule History

1980 Revision: Implements 1979 amendments to section 744.331, Florida Statutes.

1984 Revision: Change in title of rule. Editorial changes and adds a provision for service of petition. Committee notes revised.

1988 Revision: Committee notes revised. Citation form changes in committee notes.

1989 Revision by Ad Hoc Committee: The committee realized that formal notice as defined in rule 5.040(a)(1) requires the recipient of notice to file a responsive pleading within 20 days after the service of the notice. The committee believed that to impose such a requirement on the alleged incapacitated person would contravene the legislative intent of the 1989 revisions to chapter 744, Florida Statutes. The committee observed that the time required for appointment of mandatory appointed counsel might render a responsive pleading within 20 days impossible for the alleged incapacitated person. The committee concluded that, procedurally, notice upon the alleged incapacitated person should occur in the same manner as formal notice in rule 5.040, but the required response under that rule should not be imposed upon the alleged incapacitated person.

1991 Revision: Implements 1989 amendments to sections 744.3201 and 744.331, Florida Statutes, and 1990 technical amendments.

1992 Revision: Citation form changes in committee notes.

2006 Revision: Subdivisions (c) and (d) added to incorporate 2006 amendment to section 744.441 and creation of section 744.462, Florida Statutes. Committee notes revised.

2014 Revision: Amends subdivision (a)(7) to conform with Fla. R. Jud. Admin. 2.425. Committee notes revised.

20 Revision: Subdivision (a)(8) added to require the disclosure of whether there are possible alternatives to guardianship known to the petitioner. Committee notes revised.

Statutory References

§ 744.3115, Fla. Stat. Advance directives for health care.

§ 744.3201, Fla. Stat. Petition to determine incapacity.

§ 744.331, Fla. Stat. Procedures to determine incapacity.

§ 744.3371, Fla. Stat. Notice of petition for appointment of guardian and

hearing.

§ 744.441(11), Fla. Stat. Powers of guardian upon court approval.

§ 744.462, Fla. Stat. Determination regarding alternatives to guardianship.

§ 765.102, Fla. Stat. Legislative intent and findings.

Rule References

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.040(a)(3) Notice.

Fla. Prob. R. 5.800(a) Application of revised chapter 744 to existing guardianships.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

RULE 5.560. PETITION FOR APPOINTMENT OF GUARDIAN OF AN INCAPACITATED PERSON

(a) Contents. The petition shall be verified by the petitioner and shall state:

- (1) the facts to establish venue;
- (2) the petitioner's residence and post office address;
- (3) the name, age, and residence and post office address of the alleged incapacitated person;
- (4) the nature of the incapacity, the extent of guardianship, either limited or plenary, requested for the alleged incapacitated person, and the nature and value of property subject to the guardianship;
- (5) the names and addresses of the next of kin of the alleged incapacitated person known to the petitioner;
- (6) the name and residence and post office address of the proposed guardian, and that the proposed guardian is qualified to serve, or that a willing and qualified guardian has not been located;
- (7) the proposed guardian's relationship to and any previous association with the alleged incapacitated person;
- (8) the reasons why the proposed guardian should be appointed;
- (9) whether there are possible alternatives to guardianship known to the petitioner that may sufficiently address the problems of the alleged incapacitated person in whole or in part, including, but not limited to, trust agreements, powers of attorney, or advance directives; and
- (10) if the proposed guardian is a professional guardian, a statement that the proposed guardian has complied with the registration requirements of section 744.1083, Florida Statutes.

(b) Notice. Notice of filing the petition for appointment of guardian may be served as a part of the notice of filing the petition to determine incapacity, but

shall be served a reasonable time before the hearing on the petition or other pleading seeking appointment of a guardian.

(c) Service on Public Guardian. If the petitioner requests appointment of the public guardian, a copy of the petition and the notice shall be served on the public guardian.

Committee Notes

Rule History

1975 Revision: Substantially the same as section 744.334, Florida Statutes, expanded to include provisions of section 744.302, Florida Statutes, and section 744.312, Florida Statutes, by reference.

1977 Revision: Change in committee notes to conform to statutory renumbering.

1980 Revision: Implements 1979 amendment to section 744.334, Florida Statutes.

1984 Revision: Combines rule 5.560 and part of prior rule 5.570. Editorial changes and committee notes revised.

1988 Revision: Editorial changes. Committee notes revised. Citation form changes in committee notes.

1989 Revision by Ad Hoc Committee: Subdivision (a)(4) of the former rule has been deleted altogether because the date and court of adjudication will probably not be known at the time of filing the petition for the appointment since petition for appointment will henceforth be filed contemporaneously with the petition to determine incapacity.

1991 Revision: Implements 1989 amendments to sections 744.334 and 744.331(1), Florida Statutes, and 1990 technical amendments. Subdivision (c)(1) deleted because rule 5.555(d) addresses service on parents.

1992 Revision: Citation form changes in committee notes.

1996 Revision: Deletes requirement in subdivision (a) to report social security number of alleged incapacitated person. Adds provision to subdivision (b) for notice before hearing when petition is not served simultaneously with petition to determine incapacity.

2000 Revision: Deletes requirement in subdivision (a) to report social security number of proposed guardian.

2003 Revision: Committee notes revised.

2006 Revision: New (a)(9) added to incorporate 2006 passage of section 744.462, Florida Statutes. Subdivision (a)(10) added to implement section 744.1083, Florida Statutes. Committee notes revised.

2014 Revision: Fla. R. Jud. Admin. 2.425(b)(4)–(5) provides exceptions for using the birth date of any minor “whenever the birth date is necessary for the court to establish or maintain subject matter jurisdiction,” as well as using the full name in situations in which the “name of the minor in any order relating to parental responsibility, time-sharing, or child support.” Committee notes revised.

20__ Revision: Subdivision (a)(9) revised to require the disclosure of whether there are possible alternatives to guardianship known to the petitioner. Committee notes revised.

Statutory References

- § 744.1083, Fla. Stat. Professional guardian registration.
- § 744.309, Fla. Stat. Who may be appointed guardian of a resident ward.
- § 744.3115, Fla. Stat. Advance directives for health care.
- § 744.312, Fla. Stat. Considerations in appointment of guardian.
- § 744.3201, Fla. Stat. Petition to determine incapacity.
- § 744.331, Fla. Stat. Procedures to determine incapacity.
- § 744.334, Fla. Stat. Petition for appointment of guardian or professional guardian; contents.
- § 744.3371(1), Fla. Stat. Notice of petition for appointment of guardian and hearing.
- § 744.341, Fla. Stat. Voluntary guardianship.
- § 744.344, Fla. Stat. Order of appointment.
- § 744.462, Fla. Stat. Determination regarding alternatives to guardianship.
- § 744.703, Fla. Stat. Office of public guardian; appointment, notification.
- § 765.102, Fla. Stat. Legislative intent and findings.

Rule References

- Fla. Prob. R. 5.020 Pleadings; verification; motions.
- Fla. Prob. R. 5.040 Notice.
- Fla. Prob. R. 5.550 Petition to determine incapacity.

Fla. R. Jud. Admin. 2.425 Minimization of the Filing of Sensitive Information.

RULE 5.620. INVENTORY

(a) Inventory. Within 60 days after issuance of letters, the guardian of the property shall file a verified inventory as required by law. All property not in the guardian's possession as of the date the inventory is filed shall be so identified.

(b) Amended or Supplemental Inventory. If the guardian of the property learns of any property not included in the inventory, or learns that the description in the inventory is inaccurate, the guardian shall, within 30 days of this discovery, file a verified amended or supplemental inventory showing the change.

(c) Substantiating PapersDocuments. Unless ordered by the court, the guardian need not file the papersdocuments substantiating the inventory. Upon reasonable written request, the guardian of the property shall make the substantiating papersdocuments available for examination to those persons entitled to receive or inspect the inventory.

(d) Safe-Deposit Box Inventory. If the ward has a safe-deposit box, a copy of the safe-deposit box inventory shall be filed as part of the verified inventory.

(e) Guardian Advocates. This rule shall apply to a guardian advocate to the extent that the guardian advocate was granted authority over the property of the person with a developmental disability.

Committee Notes

Rule History

1977 Revision: Change in committee notes to conform to statutory renumbering.

1984 Revision: Change to require inventory to be filed within 60 days after issuance of letters, rather than after appointment. Committee notes revised.

1988 Revision: Editorial changes. Committee notes revised. Citation form change in committee notes.

1989 Revision: Prior rule deleted and replaced by temporary emergency rule.

1991 Revision: Former rule 5.620(b) has been deleted as partly substantive and addressed in section 744.381, Florida Statutes, and the procedural part is

unnecessary.

The committee recognizes the conflict between this rule and section 744.362, Florida Statutes, which requires the filing of the initial guardianship report (which includes the inventory) within 60 days after appointment. The committee believes this provision, which attempts to regulate when a paper must be filed with the court, is procedural and that a guardian may not receive letters of guardianship empowering the guardian to act contemporaneously with the appointment. Therefore, the issuance of letters is a more practical time from which to measure the beginning of the time period for the accomplishment of this act.

1992 Revision: Citation form changes in committee notes.

2005 Revision: Editorial changes in (d).

2007 Revision: Committee notes revised.

2008 Revision: Adds reference to guardian advocate in new (e). Committee notes revised.

2012 Revision: Committee notes revised.

20 Revision: Subdivision (c) revised to substitute “documents” for “papers.”

Statutory References

§ 393.12, Fla. Stat. Capacity; appointment of guardian advocate.

§ 744.362, Fla. Stat. Initial guardianship report.

§ 744.365, Fla. Stat. Verified inventory.

§ 744.3701, Fla. Stat. Inspection of report.

§ 744.381, Fla. Stat. Appraisals.

§ 744.384, Fla. Stat. Subsequently discovered or acquired property.

Rule References

Fla. Prob. R. 5.020 Pleadings; verification; motions.

Fla. Prob. R. 5.041 Service of pleadings and documents.

Fla. Prob. R. 5.060 Request for notices and copies of pleadings.

Fla. Prob. R. 5.610 Execution by guardian.

Fla. Prob. R. 5.649 Guardian advocate.

Fla. Prob. R. 5.690 Initial guardianship report.

Fla. Prob. R. 5.700 Objection to guardianship reports.

Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

RULE 5.690. INITIAL GUARDIANSHIP REPORT

(a) Contents and Filing. An initial guardianship report shall be filed within 60 days after the issuance of letters of guardianship. The guardian of the property shall file the initial guardianship report consisting of the verified inventory. The guardian of the person shall file the initial guardianship report consisting of the guardianship plan.

(b) Service. Copies of the initial guardianship report shall be served on the ward, unless the ward is a minor under the age of 14 years or is totally incapacitated, and the attorney for the ward, if any. With approval of the court, service on the ward may be accomplished by serving the attorney for the ward.

Committee Notes

The committee recognizes the conflict between this rule and section 744.362, Florida Statutes, which requires the filing of the initial guardianship report (which includes the inventory) within 60 days after appointment. The committee believes this provision, which attempts to regulate when a paper document must be filed with the court, is procedural and that a guardian may not receive letters of guardianship empowering the guardian to act contemporaneously with the appointment. Therefore, the issuance of letters is a more practical time from which to measure the beginning of the time period for the accomplishment of this act.

In the event the guardian of the property and the guardian of the person are not the same entity or person, they shall make a good faith effort to jointly file the initial guardianship report.

Rule History

1991 Revision: New rule.

1992 Revision: Addition of phrase in subdivision (b) to conform to 1992 amendment to section 744.362(1), Florida Statutes. Citation form changes in committee notes.

2012 Revision: Committee notes revised.

20__ Revision: Committee notes revised.

Statutory References

§ 744.362, Fla. Stat. Initial guardianship report.
§ 744.363, Fla. Stat. Initial guardianship plan.
§ 744.365, Fla. Stat. Verified inventory.
§ 744.3701, Fla. Stat. Inspection of report.
§ 744.384, Fla. Stat. Subsequently discovered or acquired property.

Rule References

Fla. Prob. R. 5.020 Pleadings; verification; motions.
Fla. Prob. R. 5.041 Service of pleadings and documents.
Fla. Prob. R. 5.060 Request for notices and copies of pleadings.
Fla. Prob. R. 5.180 Waiver and consent.
Fla. Prob. R. 5.610 Execution by guardian.
Fla. Prob. R. 5.620 Inventory.
Fla. Prob. R. 5.700 Objection to guardianship reports.
Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

RULE 5.696. ANNUAL GUARDIAN ACCOUNTING

(a) ~~Contents and Filing.~~ ~~The guardian of the property must file an annual accounting as required by law. The annual accounting must include:~~

~~(1) — a full and correct account of the receipts and disbursements of all of the ward’s property over which the guardian has control and a statement of the ward’s property on hand at the end of the accounting period; and~~

~~(2) — a copy of the statements of all the ward’s cash accounts as of the end of the accounting period from each institution where the cash is deposited.~~ **Applicability.** This rule applies to all guardian accountings required under Chapter 744, Florida Statutes, other than a simplified accounting permitted under section 744.3679, Florida Statutes.

(b) Contents. A guardian accounting shall include:

(1) a statement of the starting balance of assets on hand at the beginning of the accounting period which shall be the ending balance of the preceding accounting, or if none, the value of assets on the inventory;

(2) a full and correct account of the receipts and disbursements of all of the ward’s property over which the guardian has control since the date of the last accounting or, if none, from the date of issuance of letters of guardianship;

(3) a schedule of assets at the end of the accounting period; and

(4) in the case of annual accountings, a copy of the annual or year-end statement of all of the ward’s cash accounts from each of the institutions where the cash is deposited.

(c) Accounting Standards. The following standards are required for the accounting of all transactions occurring on or after January 1, 2017:

(1) Accountings shall be stated in a manner that is understandable to persons who are not familiar with practices and terminology peculiar to the administration of guardianships.

(2) The accounting shall begin with a concise summary of its purpose and content.

(3) The accounting shall contain sufficient information disclosing all significant transactions affecting administration during the accounting period.

(4) The accounting shall contain 2 values in the schedule of assets at the end of the accounting period, the asset acquisition value or carrying value, and estimated current value.

(5) Gains and losses incurred during the accounting period shall be shown separately in the same schedule.

(d) Accounting Format. A model format for an accounting is attached to this rule as Appendix A.

(e) Verification. All accountings shall be verified by the guardian filing the accounting.

~~(b)~~(f) Substantiating Documents. Unless otherwise ordered by the court, the guardian need not file the documents substantiating the ~~annual~~guardian accounting. Upon reasonable written request, the guardian of the property shall make the substantiating documents available for examination to persons entitled to receive or inspect the ~~annual~~guardian accounting.

~~(e)~~(g) Interim Inspection of Records. Upon reasonable written request and notice, the guardian of the property shall make all material financial records pertaining to the guardianship available for inspections to those persons entitled to receive or inspect the ~~annual~~guardian accounting.

Committee Notes

The purpose of this substantial revision is for guardian accountings to conform to rule 5.346 and the Fiduciary Accounting Principles and Model Formats and commentaries incorporated into rule 5.346. As set forth in subdivision (b)(1), the starting balance shall be the ending balance of the preceding accounting, or if none, the value of assets on the inventory.

Attached, as Appendix A, is a model accounting format which is only a suggested form.

Rule History

1991 Revision: New rule.

1992 Revision: Citation form changes in committee notes.
2010 Revision: Editorial change in (b) to delete redundant language.
2012 Revision: Committee notes revised.
2013 Revision: Subdivision (b) revised to substitute “documents” for “papers.” Committee notes revised. Editorial changes to conform to the court’s guidelines for rule submissions as set forth in AOSC06-14.
20 Revision: Substantial rule revision. Committee notes revised.
Appendix A adopted.

Statutory References

§ 744.367, Fla. Stat. Duty to file annual guardianship report.
§ 744.3678, Fla. Stat. Annual accounting.
§ 744.3701, Fla. Stat. Inspection of report.
§ 744.3735, Fla. Stat. Annual appearance of the guardian.

Rule References

Fla. Prob. R. 5.020 Pleadings; verifications; motions.
Fla. Prob. R. 5.041 Service of pleadings and documents.
Fla. Prob. R. 5.060 Request for notices and copies of pleadings.
Fla. Prob. R. 5.346 Fiduciary Accounting.
Fla. Prob. R. 5.610 Execution by guardian.
Fla. Prob. R. 5.695 Annual guardianship report.
Fla. Prob. R. 5.700 Objection to guardianship reports.
Fla. R. Jud. Admin. 2.516 Service of pleadings and documents.

APPENDIX A

IN RE: GUARDIANSHIP OF

File Number: _____

Division: _____

ACCOUNTING OF GUARDIAN(S)

From: _____, _____, Through: _____, _____

The purpose of this accounting is to report the assets on hand at the beginning of the accounting period, all transactions that have occurred during the period covered by the accounting, and the assets that remain on hand at the end of the accounting period. It consists of a SUMMARY sheet and Schedule A showing all Receipts, Schedule B showing all Disbursements, Schedule C showing all Capital Transactions and Adjustments (the effect of which are also reflected in other schedules, if appropriate), and Schedule D showing assets on hand at the end of the accounting period.

Under penalties of perjury, the undersigned guardian(s) declare(s) that I (we) have read and examined this accounting and that the facts and figures set forth in the Summary and the attached Schedules are true, to the best of my (our) knowledge and belief, and that it is a complete report of all cash and property transactions and of all receipts and disbursements by me (us) as guardian(s) of _____, the ward, from, _____ through _____.

Signed on _____.

Attorney for Guardian:

Guardian:

Attorney

Name

(address)

(address)

Telephone: _____

[Print or Type Names Under All Signature

E-mail address: _____

Lines]

Florida Bar No.: _____

IN THE CIRCUIT COURT FOR _____ COUNTY, FLORIDA

IN RE: GUARDIANSHIP OF

File Number: _____

Division: _____

_____ACCOUNTING OF GUARDIAN(S)_____

From: _____, _____, Through: _____, _____

SUMMARY

	<u>Estimated Current Value</u>	<u>Carrying Value</u>
I. <u>Starting Balance</u> <u>Assets on Hand at Beginning of Accounting Period</u>		\$ _____
II. <u>Receipts</u> <u>Schedule A:</u>		\$ _____
III. <u>Disbursements</u> <u>Schedule B:</u>		\$ _____
IV. <u>Capital Transactions and Adjustments</u> <u>Schedule C: Net Gain or (Loss)</u>		\$ _____
V. <u>Assets on Hand at Close of Accounting Period</u> <u>Schedule D: Cash and Other Assets</u>	\$ _____	\$ _____

NOTE: Refer to Fla. Prob. R. 5.696.

Entries on Summary are to be taken from totals on Schedules A, B, C and D.

The Summary and Schedules A, B, C and D are to constitute the full accounting. Every transaction occurring during the accounting period should be reflected on the Schedules.

All purchases and sales, all adjustments to the asset acquisition or carrying value of any asset, and any other significant transactions that affect the property (such as stock splits) should be described on Schedule C.

ACCOUNTING OF GUARDIAN(S)

GUARDIANSHIP OF

From: , Through:

SCHEDULE C Capital Transactions and Adjustments

<u>Date</u>	<u>Brief Description of Transactions</u>	<u>Net Gain</u>	<u>Net Loss</u>
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TOTAL NET GAINS AND LOSSES

NET GAIN OR (LOSS)

NOTE: Schedule C should reflect all purchases and sales of assets and any adjustments to the asset acquisition or carrying values of any assets.

Entries reflecting sales should show the asset acquisition or adjusted carrying values, the costs and expenses of the sale, and the net proceeds received. The net gain or loss should be extended in the appropriate column on the right side of Schedule C.

Entries reflecting purchases should reflect the purchase price, any expenses of purchase or other adjustments to the purchase price, and the total amount paid. Presumably no gain or loss would be shown for purchases.

Entries reflecting adjustments in capital assets should explain the change (such as a stock split) and the net gain or loss should be shown in the appropriate column on the right side of Schedule C.

The NET gain or loss should be entered in the carrying value column of the Summary.

_____ ACCOUNTING OF GUARDIAN(S).

GUARDIANSHIP OF _____

From: _____, _____, Through: _____

=====

SCHEDULE D _____ Assets on Hand at Close of Accounting Period

(Indicate where held and legal description, certificate numbers, or other identification.)

	<u>Estimated</u> <u>Current Value</u>	<u>Carrying</u> <u>Value</u>
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=====

ASSETS OTHER THAN CASH:

OTHER ASSETS TOTAL _____

CASH:

CASH TOTAL \$ _____

TOTAL ASSETS (must agree with the Total for Item V on Summary)

NOTE: Schedule D should be a complete list of all assets on hand reflecting asset acquisition or carrying values for each item, adjusted in accordance with any appropriate entries on Schedule C, and estimated current values for each item.

Current market values for any assets that are known to be different from the asset acquisition or carrying values as of the close of the accounting period should be shown in the column marked "Estimate Current Value." The total adjusted carrying value (not Current Value) must agree with the Total for Item V on Summary.

APPENDIX B

GUARDIAN ACCOUNTING PRINCIPLES

I. ACCOUNTS SHOULD BE STATED IN A MANNER THAT IS UNDERSTANDABLE BY PERSONS WHO ARE NOT FAMILIAR WITH PRACTICES AND TERMINOLOGY PECULIAR TO THE ADMINISTRATION OF GUARDIANSHIPS.

Commentary: In order for an account to fulfill its basic function of communication, it is essential that it be stated in a manner that recognizes that the interested parties are not usually familiar with guardian accounts. It is neither practical nor desirable to require that accounts be tailored to meet individual disabilities of particular parties but any account should be capable of being understood by a person of average intelligence, literate in English, and familiar with basic financial terms who has read it with care and attention.

Problems arising from terminology or style are usually a reflection of the fact that people who become versed in a particular form of practice tend to forget that terms which are familiar and useful to them may convey nothing to someone else or may even be affirmatively misleading. For example, the terms “debit” and “credit” are generally incomprehensible to people with no knowledge of bookkeeping and many people who are familiar with them in other contexts would assume that in the context of guardian accounting, the receipt of an item is a “credit” to the fund rather than a “debit” to the guardian.

While the need for concise presentation makes a certain amount of abbreviation both acceptable and necessary, uncommon abbreviation of matters essential to an understanding of the account should be avoided or explained.

Print-outs from electronic accounting systems or account statements can be used as attachments to the schedules in the accounting form or to clarify the accounting. The quality of the accounts produced by these systems and account statements varies widely in the extent to which they can be understood by persons who are not familiar with them.

II. A GUARDIAN ACCOUNT SHALL BEGIN WITH A CONCISE SUMMARY OF ITS PURPOSE AND CONTENT.

Commentary: Very few people can be expected to pay much attention to a document unless they have some understanding of its general purpose and its significance to them. Even with such an understanding, impressions derived from the first page or two will often determine whether the rest is read. The use that is made of these pages is therefore of particular significance.

The cover page should disclose the nature and function of the account. While a complete explanation of the significance of the account and the effect of its presentation upon the rights of the parties is obviously impractical for inclusion at this point, there should be at least a brief

statement identifying the guardian and the subject matter, noting the importance of examining the account and giving an address where more information can be obtained.

A summary of the account shall also be presented at the outset. This summary, organized as a table of contents, shall indicate the order of the details presented in the account and shall show separate totals for the aggregate of the assets on hand at the beginning of the accounting period; transactions during the period; and the assets remaining on hand at the end of the period. Each entry in the summary shall be supported by a schedule in the account that provides the details on which the summary is based.

III. A GUARDIAN ACCOUNT SHALL CONTAIN SUFFICIENT INFORMATION TO PUT THE INTERESTED PARTIES ON NOTICE AS TO ALL SIGNIFICANT TRANSACTIONS AFFECTING ADMINISTRATION DURING THE ACCOUNTING PERIOD.

Commentary: The presentation of the information account shall allow an interested party to follow the progress of the guardian's administration of assets during the accounting period.

An account is not complete if it does not itemize, or make reference to, assets on hand at the beginning of the accounting period.

Illustration:

3.1 The first account for a guardianship may detail the items received by the guardian and for which the guardian is responsible. It must begin with the total amount on the inventory.

Transactions shall be described in sufficient detail to give the court and interested parties notice of their purpose and effect. It should be recognized that too much detail may be counterproductive to making the account understandable. In accounts dealing with extensive assets, it is usually desirable to consolidate information with attachments that show detail. For instance, where income from a number of securities is being accounted for, a statement of the total dividends received on each security with appropriate indication of changes in the number of shares held will be more readily understandable and easier to check for completeness than a chronological listing of all dividends received.

Illustrations:

3.2 Extraordinary appraisal costs should be shown separately and explained.

3.3 Interest and penalties in connection with late filing of tax returns should be shown separately and explained.

3.4 Receipts and disbursements shall be shown on separate schedules in chronological order. The separate schedules may include totals by account, with separate ledgers for each account, such as securities or financial accounts.

3.5 Changes in asset values due to market fluctuations are not transactions and shall not be reflected as a loss or gain, but the estimated current value and carrying value shall be shown on the schedule listing assets held at the end of the accounting period.

IV. A GUARDIAN ACCOUNT SHALL CONTAIN TWO VALUES, THE ASSET ACQUISITION VALUE OR CARRYING VALUE, AND CURRENT VALUE.

Commentary: In order for transactions to be reported on a consistent basis, an appropriate carrying value for assets must be chosen and employed consistently.

The carrying value of an asset should reflect its value at the time it is acquired by the guardian. When such a value is not precisely determinable, the figure used should reflect a thoughtful decision by the guardian. Assets received in kind should be carried at their value at the time of receipt. For assets purchased during the administration of the guardianship, acquisition cost would normally be used. Use of Federal income tax basis for carrying value is acceptable when basis is reasonably representative of real values at the time of acquisition.

In the Model Account, carrying value is referred to as “guardian acquisition value.” The Model Account establishes the initial carrying value of assets as their value at inception of the guardianship for inventoried assets, date of receipt for subsequent receipts, and cost for investments.

Carrying value would not normally be adjusted for depreciation.

Except for adjustments that occur normally under the accounting system in use, carrying values should generally be continued unchanged through successive accounts and assets should not be arbitrarily “written up” or “written down.” In some circumstances, however, with proper disclosure and explanation, carrying value may be adjusted.

Illustrations:

4.1 Assets received in kind in satisfaction of a pecuniary legacy should be carried at the value used for purposes of distribution.

Illustrations:

4.2 When an asset is held under circumstances that make it clear that it will not be sold (e.g., a residence used by the ward) the guardian’s estimate of value would be acceptable in lieu of an appraisal.

4.3 Considerations such as a pending tax audit or offer of the property for sale may indicate the advisability of not publishing the guardian’s estimate of value. In such circumstances, a statement that value was fixed by some method such as “per company books,” “formula under buy-sell agreement,” or “300% of assessed value” would be acceptable, but the guardian would be expected to provide further information to interested parties upon request.

V. GAINS AND LOSSES INCURRED DURING THE ACCOUNTING PERIOD SHALL BE SHOWN SEPARATELY IN THE SAME SCHEDULE.

Commentary: Each transaction involving the sale or other disposition of securities during the accounting period shall be shown as a separate item in one combined schedule of the account indicating the transaction, date, explanation, and any gain or loss.

Although gains and losses from the sale of securities can be shown separately in accounts, the preferred method of presentation is to present this information in a single schedule. Such a presentation provides the most meaningful description of investment performance and will tend to clarify relationships between gains and losses that are deliberately realized at the same time.

Increases and decreases in value not related to a sale or other disposition are unrealized gains or losses and should not be shown as such on this schedule.