

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: : NO. 901
:
ORDER AMENDING RULE 10.5 OF THE : SUPREME COURT RULES DOCKET
PENNSYLVANIA RULES OF ORPHANS' :
COURT PROCEDURE :

ORDER

PER CURIAM

AND NOW, this 12th day of January, 2022, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been published for public comment at 51 Pa.B. 1651 (March 27, 2021):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 10.5 of the Pennsylvania Rules of Orphans' Court Procedure is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective on April 1, 2022.

Additions to the rules are shown in bold and are underlined.
Deletions from the rules are shown in bold and brackets.

Rule 10.5 Notice to Beneficiaries and Intestate Heirs

(a) Within three **[(3)]** months after **[the] a** grant of letters **or whenever there is a change in personal representative, [the] a** personal representative **[to whom original letters have been granted]** or the personal representative's counsel shall send a written notice of estate administration in the form approved by the Supreme Court to:

...

(e) Upon the failure of the personal representative or the personal representative's counsel to file the certification on a timely basis, the Register shall, after ten **[(10)]** days subsequent to providing written notice to **[the delinquent] each** personal representative and **[his] their** counsel, notify the court of such delinquency.

...

Note: Rule 10.5 is **[substantively identical to] derived from** former Rule 5.6[.]. **Subdivision (a) applies to an initial grant of letters and to all changes in personal representative, including a grant of letters to a successor personal representative or due to the death or resignation of a personal representative when there are other personal representatives who continue to serve. [except that subparagraph] Subdivision** (d) of this Rule **[no longer] does not** prohibit[s] the Register from charging a fee for filing this certification. The form of notice and certification of notice required by Rule 10.5 is set forth in the Appendix. **[Subparagraph] Subdivision** (e) of this Rule is not intended to limit the inherent power of the court to impose sanctions upon a delinquent personal representative or counsel.

Explanatory Comment: It is not the intention of this Rule to require notice beyond the degree of consanguinity entitling a person to inherit under Chapter 21 of Title 20.

**ORPHANS' COURT PROCEDURAL RULES COMMITTEE
ADOPTION REPORT**

Amendment of Pa.R.O.C.P. 10.5

On January 12, 2022, the Supreme Court amended Pennsylvania Rule of Orphans' Court Procedure 10.5 governing the notice given by the personal representative to beneficiaries and intestate heirs. The Orphans' Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process as it relates to Pa.R.O.C.P. 10.5. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, Comment. The statements contained herein are those of the Committee, not the Court.

The Committee received correspondence regarding the requirement in Rule 10.5 that "the personal representative to whom *original* letters have been granted" send written notice of estate administration to a list of beneficiaries and intestate heirs set forth in the rule. (Emphasis added.) The correspondent questioned if "original" was intended to denote "initial" letters, since all letters issued by a register of wills are original letters. The correspondent further inquired whether a successor personal representative is required to provide notice of estate administration if the initial personal representative failed to do so or provide notice of the change in personal representatives to the interested persons.

The Committee agreed that estate beneficiaries and intestate heirs should receive notice of estate administration from a successor personal representative. Requiring successor personal representatives to notify interested persons of the change in representative ensures the recipients are aware of the change and know from whom they should expect future information. Thereafter, the Committee proposed amending Rule 10.5(a) to eliminate the word "original" with respect to the granting of letters to clarify that any personal representative granted letters must send the notice of estate administration. The Committee also proposed amending the Note to Rule 10.5 to clarify that the notice requirement applies to all personal representatives, including successor personal representatives. See 51 Pa.B. 1651 (March 27, 2021).

Based on a comment received in response to the publication, the Committee made changes to the proposal. First, the Committee revised proposed Rule 10.5(a) to eliminate the phrase "to whom original letters have been granted" relative to the personal representative – the phrase is superfluous insofar as a personal representative will always be someone to whom letters have been granted. The Committee further revised proposed Rule 10.5(a) to require notice to interested parties "whenever there is a change in personal representative," regardless of whether revised letters have been issued. This may occur in some judicial districts upon the death or resignation of a co-executor. The Committee also made corresponding changes to the Note.

Finally, Rule 10.5(e) was amended to clarify that the Register shall provide notice of failure to file timely the certification to each personal representative and their counsel, rather than simply “the delinquent” personal representative. The amendment more accurately describes the procedure when there is more than one personal representative.

These amendments become effective April 1, 2022.