

PCLSPR 98.18 – COURT CREATED TRUSTS

(a) Scope of Rule. This rule shall apply to any trust created by the court, including but not limited to trusts created pursuant to [PCLSPR 98.16W](#), [RCW 11.88](#), [11.130](#), and [RCW 11.92](#), such as special needs trusts and settlement trusts.

(b) Drafting of Trust Instrument. A trust instrument shall only be drafted after a written guardian ad litem recommendation and/or a court order that specifies the relevant terms of such trust, unless the requirement of such recommendation or court order is waived by the court for good cause.

(c) Guardian ad Litem/Court Visitor/Guardian/Conservator. The court shall only order a court-created trust upon the written recommendation of a qualified guardian ad litem, court visitor, conservator, or guardian, unless the requirement ~~of a guardian ad litem or guardian~~ is specifically waived by the court for good cause. Based on the facts and circumstances, the court may authorize the petitioner, the guardian ad litem, court visitor, conservator, or guardian to hire trust counsel to evaluate any proposed trust instrument, to draft a trust instrument, or any other duties as enumerated by the court.

The guardian ad litem's, court visitor's, conservator's or guardian's report shall:

(1) Identify why a court-created trust is in the best interests of the beneficiary;

(2) Specifically identify any other roles expected of a trustee or trust advisory committee member in the life of the beneficiary (e.g. this requirement would include caregivers, professional advisors, family or others who might receive direct or independent economic benefit from trust expenditures); and

(3) Specifically recommend why a Trust Advisory Committee is appropriate or not appropriate if proposed by petitioner.

(d) Special Master. In its discretion, the court may appoint a Special Master to provide independent analysis to the court with regard to the proposed trust instrument or provide such assistance as ordered by the court.

(e) Declaration of Proposed Trustee. Prior to appointment, each trustee shall file with the court a **Declaration of Proposed Trustee** as set forth in Appendix, **Form K** unless waived by the court. If the proposed trustee is a bank or trust company, no Declaration shall be required, except if the court or the guardian ad litem determines that a Declaration shall be filed with the court. At the hearing for appointment, the fee schedule shall be disclosed.

(f) Notice and Hearing. All hearings shall be scheduled with a Note for Commissioner's Calendar using the electronic filing and scheduling process provided by LINX via the public website (<https://linxonline.co.pierce.wa.us/linxweb/Main.cfm>) or from a public kiosk in the Clerk's Office. The Note shall be filed at least seven (7) court days prior to the scheduled hearing date. The Court Commissioner may set special hearings at other times if complex or unusual issues are present. Self-represented parties may contact the Clerk's Office for a LINX e-filing account or use the Clerk's Office kiosk to file and schedule a Note for Commissioners Calendar. Any party opposing a motion shall file and serve responsive papers in opposition to a motion not later than 12:00 noon, three (3) court days before the date the motion is scheduled for hearing. Any papers in strict reply shall be served no later than 12:00 noon two (2) court days before the date the motion is scheduled for hearing.

(g) Attendance at Hearings. The presence of the Guardian ad Litem, Court Visitor, Conservator, Guardian, Special Master and the affected person is required unless waived by the Court pursuant to an Order obtained from the Commissioner in Civil Division A in advance of the hearing for good cause shown.

(h) Civil Hearing Information Form/Proposed Orders (Form U). For matters docketed on the probate/trust, guardianship, and minor settlement calendar in Civil Division A, a Civil Hearing Information Form (Form U) shall be filed and served listing all motions, petitions, and supporting documents, including affidavits, declarations, certified statements, guardian ad litem/court visitor reports, and responsive and reply documents the attorneys or self-represented parties want the court to review for the hearing.

Both the moving party and the responding party shall file their Civil Hearing Information Forms (Form U) by using the Clerk's electronic filing process as defined in [PCLGR 30\(b\)\(5\)\(C\)](#) no later than 12:00 noon two (2) court days prior to the scheduled hearing. Working copies shall no longer be delivered or furnished for any Commissioner's docket.

For probate, trust, guardianship, [conservatorship](#), and minor settlement cases, proposed orders shall be provided when submitting the Civil Hearing Information Form (Form U). For all other matters, proposed orders shall be presented to the court at the time of the hearing.

(i) Order Approving/Declaring Trust. Within thirty (30) days, the Order Approving/Declaring the Trust shall be filed in a court file with a guardianship/[conservatorship](#) cause number to allow the court to track the matter. Likewise, the trust instrument shall be filed under the same cause number. Any guardian ad litem/[court visitor](#) shall not be discharged until such filing has occurred.

(j) Fees/Costs. All fees and costs requested by the attorney for the minor and/or court appointed Settlement Guardian ad Litem [or Court Visitor](#) are subject to court approval.

(k) Review Hearings. Upon signing the Order Approving/Declaring the Trust, the court shall specify the report interval for the first periodic report and accounting. At the time the Order Approving/Declaring the Trust is filed with the clerk's office, the clerk shall schedule the date for the initial review hearing on the assigned judicial department's Friday motion docket, not more than 120 days after the anniversary date of the Order. Trusts shall be reviewed at least annually unless the court extends the review period. The periodic reports and accountings shall be filed within 90 days after the anniversary date of the trust's creation.

Review hearings on subsequent periodic reports and accountings shall be automatically scheduled by the court and heard on the assigned judicial department's Friday motion docket not more than 120 days after the anniversary date of the trust's creation. Any change to the scheduled review date shall be noted before the assigned department. Review hearings on final reports and accountings shall be noted and heard on the assigned judicial department's Friday motion docket.

(l) Trust Summary. A Trust Summary as set forth in Appendix [Form L](#) shall be completed and placed directly below the case caption or on a separate cover page on all orders creating a trust and orders approving a trustee's periodic report or accounting.

(m) Delinquency Calendar. The assigned judicial department shall track all trust cases which require court review. The department shall notify the trustee and counsel of cases where periodic reports and accountings are delinquent and direct the trustee and counsel to appear at a hearing where sanctions may be imposed or the trustee removed. The department may appoint a guardian ad litem [or court visitor](#) to investigate and report back to the court as to whether the trustee should be removed or other protections put in place for the benefit of the trust beneficiary.

Waiver of Requirement to E-file. See [PCLGR 30\(b\)\(5\)\(C\)](#).

[Amended effective September 1, 2022⁹]