GC-510 What is "Proof of Service" in a Guardianship?

What is "service"?

- When you are involved in a court case, you are responsible for delivery **("service")** of copies of important papers you file with the court to other people involved in the case. Depending on the circumstances, these papers must be served by personal delivery (called **"personal service"**), or may be served by mail (called "**service by mail"**).
- If you file a petition for appointment of a guardian for a child, you are a **petitioner.** At the beginning of the case the petitioner must arrange for personal service of copies of the petition and other papers on certain people, must see that these papers are served on certain other people either by mail or by personal service (at the petitioner's choice), and then must show the court that this has been done (called "**proving service,"** or "**proof of service"**).
- This form explains what papers must be served at the beginning of a guardianship, who must be served with these papers, how and when service must be made, and how and when you, as a guardianship petitioner, must prove to the court that service has been made. You can find out more about the papers that you must file in another form available from the court, **Form GC-505**, *Forms You Need to Ask the Court to Appoint a Guardian of the Person*.

What papers must be served at the beginning of a guardianship case?

- **A filled-in copy of the petition for appointment of a guardian (the *"Petition"*).**
  In a guardianship of the person, this may be either **Form GC-210(P)**, *Petition for Appointment of a Guardian of the Person* or **Form GC-210,** *Petition for Appointment of Guardian of Minor*. Copies of all papers attached to the *Petition* must also be served with it.
- **A filled-in copy of Form GC-020,** *Notice of Hearing—Guardianship or Conservatorship*, (the "*Notice of Hearing"*) showing the date, time, and place of the hearing on the *Petition*, including (unsigned) copies of all attachments showing proof of service.

Who must be personally served?

(You may use this form as a checklist. Check all that apply to your case.)

Don't serve these by mail!

- ☐ The child who needs a guardian, but only if he or she is at least 12 years old.
- ☐ The child's parents.
- ☐ Any person who has legal custody of the child or is serving as court-appointed guardian of the child's property (the child's **"estate"**).
- ☐ Any person nominated as guardian of the child by one or both of the child's parents (if your petition does not ask the court to appoint that person as guardian).
- ☐ Any person nominated as guardian of the estate of the child for property received by the child from the person making the nomination.

How do I arrange for personal service?

Someone—not you or anyone else who signed the *Petition*—must personally serve (hand-deliver) copies of the *Notice of Hearing* and the *Petition* to the persons named above. Service lets these persons know:

- That you are asking the court to appoint a guardian for the child named in the *Petition*.
- The person you want the court to appoint as guardian (either yourself or someone else).
- The date and time when, and the place where, the court will hear your request.

Who can serve?

Ask someone you know, a registered process server, or a representative of the county sheriff's civil division, to personally serve copies of the forms to the persons named above. The forms ***cannot*** be sent to those persons by mail.

- The server must be at least 18 years of age.
- A registered process server is a business you pay to deliver court forms. Look in a telephone directory under "Process Serving."
- The sheriff's civil division often has an office at the courthouse. You will also have to pay for its services.

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How does the server personally serve the *Notice of Hearing* and the *Petition*?

Ask the server to:

- Walk up to each person to be served and make sure he or she is the right person.
- Hand each person copies of the filled-out *Notice of Hearing* and the *Petition.*
- Fill out and sign **Form GC-020(P)**, *Proof of Personal Service of Notice of Hearing*. If the server delivers papers to more people than can be listed on this form, ask the server to add the names of the additional people served on one or more copies of **Form DE-120(PA)/GC-20(PA),** *Attachment to Notice of Hearing Proof of Personal Service*.
- Give the filled-out and signed **Form GC-020(P)** and any attachment pages back to you.

What if the person served won't take the papers or tears them up?

The server must attempt to make personal delivery **(but peacefully!)** even if the person served won't take the papers. It doesn't matter if the person tears them up or throws them down after they are handed to him or her. **(A registered process server or sheriff's deputy will know how to complete a good service. If you think someone who must be personally served will try to avoid service, it is a good idea to use one of these professionals to serve that person.)**

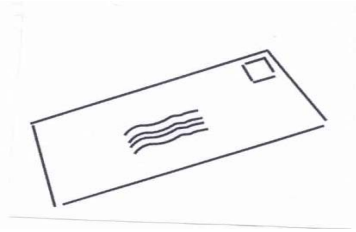
Who signs the Proof of Personal Service?

- Only the person who serves the *Notice of Hearing* and the *Petition* can sign **Form GC-020(P)**. **Neither you, any other petitioner, nor the person served may sign this form.**
- If more than one person personally serves papers, each server must fill out and sign his or her own separate **Form GC-020(P)** showing the names of the persons he or she serves.

Who may be served by mail?

(You may use this form as a checklist. Check all that apply to your case.)

☐ The child's relatives listed in the child's **Form GC-210(CA)**,*Guardianship Petition—Child Information Attachment,* attached to the *Petition*:



These may be served by mail!

- ☐ Grandfather (father's father)
- ☐ Grandmother (father's mother)
- ☐ Grandfather (mother's father)
- ☐ Grandmother (mother's mother)
- ☐ Brother(s) (including half-brothers) (if 12 years of age or older)
- ☐ Sister(s) (including half-sisters) (if 12 years of age or older)

☐ **If the child has a brother or sister under the age of 12, copies of the *Notice of Hearing* and the *Petition* must be mailed to one of the following persons for him or her instead of mailing directly to the young brother or sister:**

- ☐ The brother's or sister's parent;
- ☐ A court-appointed guardian of the brother or sister; or
- ☐ A person having legal custody of the brother or sister who lives with that brother or sister.

(If a parent, guardian, or legal custodian of a brother or sister of the child involved in the case is a petitioner, service of notice to that person on behalf of the brother or sister is not necessary.)

☐ Any person having the physical care of the child who does not have legal custody of the child.

☐ **If your petition requests appointment of a guardian of the person who is not related to the child,** the Director of the Department of Social Services, Children's Services Operations and Evaluation Branch, 744 P Street MS 3-34, Sacramento, CA 95814.

☐ **Your court may require you to serve other persons or organizations by mail.** Check your court's local rules and practices to find out if this applies to you.

Who may be served by mail ? (Continued)

☐ **If the child is a patient in, or on leave from,** a state hospital run by the State Departments of Mental Health or Developmental Disabilities, to the Director of that department. The address for the Director of Mental Health is 1600 Ninth Street, Room 151, Sacramento, CA 95814. The address for the Director of Developmental Disabilities is 1600 Ninth Street, Room 240, Sacramento, CA 95814, Attn.: Office of Legal Affairs.

☐ **If the child has developmental disabilities** and the person you want the court to appoint as guardian is: (1) not the child's natural parent; (2) a provider of services to persons with developmental disabilities or the spouse or an employee of a provider; and (3) not a public agency, to the Director of the Regional Center for the Developmentally Disabled in the child's county. (But see **When must the *Notice of Hearing* and the *Petition* be served?** on page 4 of this form for a special requirement for mailing papers to a Regional Center Director.)

☐ **If the child is or may be a Native American, or has Native American ancestors,** there are additional mailing and other requirements that may apply to your case. These requirements are not discussed in this form. If you can get on the Internet, you can go to the California Courts Self-Help Center Web site to get more information about the special requirements for a guardianship involving a Native American child. The Web site's address is *www.courtinfo.ca.gov/selfhelp/family/guardianship* (English) or *www.courtinfo.ca.gov/selfhelp/espanol/familia/tutela* (Spanish).

Who need not be served (unless the court orders otherwise)?

Unless the courts orders that they be served, you do not need to arrange for service on the parents or other relatives of a child who has been relinquished to a licensed adoption agency, or the parents of a child a court has declared to be free from the parents' custody and control.

How do I arrange for service by mail?

Someone—not you or anyone else who signed the *Petition*—must do the mailing to the persons and organizations named above that are involved in your case. "Doing the mailing" means actually placing the papers in the envelopes and delivering the sealed envelopes into the possession of the U.S. Postal Service . Someone else can address the envelopes and add the postage, but the person who signs the proof of service (see below) must be able to say that he or she enclosed the papers in the envelopes and delivered the sealed envelopes to the U.S. Postal Service on a certain date at a specific place (city and state), and that the addresses on the envelopes were as they are shown in the proof of service.

Who can serve by mail?

- The person doing the mailing must be at least 18 years of age.
- He or she must not be a petitioner or a proposed guardian in your case.
- He or she must live or be employed in the county where the mailing (deposit with the U.S. Postal Service) takes place.

How does the server serve the *Notice of Hearing* and the *Petition* by mail?

Ask the server to:

- Deposit with the US. Postal Service, with first-class postage prepaid, sealed envelopes (9" x 12" or 10" x 13" Manila envelopes are recommended) addressed to the persons or organizations listed above that apply to your case. The envelopes should contain filled-in copies of **Form GC-020,** *Notice of Hearing—Guardianship or Conservatorship,* and the *Petition*, including all attached pages mentioned in it.
- Make sure the addresses shown on the envelopes for the relatives of each child match the addresses shown for these relatives in each child's **Form GC-210(CA),** *Guardianship Petition—Child Information Attachment.*

How does the server serve the *Notice of Hearing* and the *Petition* by mail? (Continued)

Ask the server to *(continued):*

- Fill out, date, and sign the *Proof of Service* on the second page of the original **Form GC-020. Don't sign that form yourself.**
- If there are more than four persons being served by mail, continue the list of persons served by mail on one or more copies of **Form DE-120(MA)/GC-020(MA)**, *Attachment to Notice of Hearing Proof of Service by Mail*.
- Give the filled-out and signed original *Proof of Service* and all filled-out attached pages back to you.

When must the *Notice of Hearing* and the *Petition* be served?

- When you file your *Petition*, the court clerk will give you a date and time when, and a courtroom or department where, the judge will hear your request for appointment of a guardian.
- Once you have the date, time, and place of the hearing, that information must be filled in on **Form GC-020,** *Notice of Hearing—Guardianship or Conservatorship*, and that form and the *Petition,* with all pages attached to it, must then be personally served or served by mail on the persons and organizations mentioned above that apply to your case.
- With the exception noted below, **personal service and service by mail must be completed at least 15 days before the date of the hearing**.
- If service must be made on the Director of the Regional Center for the Developmentally Disabled for the child's county, **service must be completed at least 30 days before the hearing**. If the child in your case is developmentally disabled and you think you may have to serve a Regional Center director, when you file your Petition you can ask the clerk for a later hearing date because you will need more time than usual to serve the *Notice of Hearing* and the *Petition.*

What happens if the papers aren't served in time?

If the *Notice of Hearing* and *Petition* aren't served in time, the court will have to continue (postpone) the hearing date on your petition. This will delay appointment of a guardian for the child or children involved in your case.

What do I do with the completed *Notice of Hearing* and the attached proofs of personal service and service by mail?

- File with the court at least 5 days before your hearing date the original **Form GC-020,** *Notice of Hearing—Guardianship or Conservatorship,* with the filled-out and signed *Proof of Service* on the second page, the filled-out, signed, and attached **Form GC-020(P),** *Proof of Personal Service of Notice of Hearing—Guardianship or Conservatorship*, and all attached pages showing additional persons served. File these papers with the court as soon as you can. The 5-day period mentioned above is a minimum time period.
- When you file **Form GC-020**, take an extra copy with you for the court to stamp, showing that the original form was filed on that day.
- Bring that copy with you to the hearing.