

Rule 108. Distributions to minors.

(a) Petitions.

In all cases where the personal representative is required to distribute estate assets to a minor for whom no guardian has been appointed, or to a minor in accordance with the provisions of a decedent's will, where the will provides for distribution to a person other than the Court appointed guardian, the personal representative must request authority from the Court by verified petition which sets forth the following information:

(1) The name, residence and date of birth of each minor for whom authority to distribute is sought, as well as the basis for the minor's entitlement to share in the estate.

(2) The total value of the estate assets to be distributed to each minor.

(3) The method of distribution proposed. State if under *D.C. Code §§ 20-1106(a)(2)* or *20-1106(b)*, and the basis for electing this method.

(4) If authority is requested under *D.C. Code §§ 20-1106(b)(1)*, (4) or (5), to distribute to a custodian on behalf of a minor, provide:

(A) The name, place of residence and relationship to the minor of the person proposed as custodian.

(B) The consent of the minor if the minor is 14 years of age or older, to the appointment of the proposed custodian.

(C) The consent of the proposed custodian to act as custodian and hold the assets on behalf of the minor.

(5) If authority is requested under *D.C. Code § 20-1106(b)(3)* to distribute estate assets under the Uniform Transfers to Minors Act, in addition to paragraphs (1) through (4), provide facts to show:

(A) The transfer is in the best interests of the minor (*D.C. Code § 21-306(c)(1)*);

(B) The transfer is not prohibited by or inconsistent with the provisions of the will (*D.C. Code § 21-306(c)(2)*);

(C) The personal representative will effect the transfer in accordance with *D.C. Code § 21-309*, and in particular, where the custodial property is money, by payment or delivery to the broker or the financial institution for credit in the custodial account.

(6) If authority is requested under *D.C. Code § 20-1106(b)(2)*, to establish a restricted account, provide the name and location of the financial institution.

(b) Receipt.

The personal representative must file within thirty (30) days of the entry of the Court order approving the distribution of estate assets on behalf of a minor, proof of the distribution approved by the Court as follows:

(1) If distribution is made under *D.C. Code § 20-1106(a)(2)* or *20-1106(b)(1)*, (3), (4) or (5), a receipt signed by the custodian, and in the case of a financial institution or broker, documentation evidencing the transaction.

(2) If distribution is made under *D.C. Code § 20-1106(b)(2)*, documentation evidencing the establishment of a restricted account.

The Court may extend the time for filing a receipt upon the showing of good cause.

COMMENT:

Subdivision (a)(3). Where the personal representative petitions for authority to distribute estate assets to a minor under *D.C. Code § 20-1106(a)(2)* or *§ 20-1106(b)*, the fiduciary must be aware of the following characteristics unique to each method of distribution in order to set forth the basis for the selection of the method proposed, i.e., court-supervised vs. un-supervised arrangement, custodial distribution vs. non-custodial distribution, and accessible assets vs. non-accessible assets:

Distributions of money or property with a value of \$ 1,000 or less (*D.C. Code § 20-1106(b)(1)*) and distributions of tangibles (*D.C. Code § 20-1106(b)(4)*). -- Distributions may be made to a custodian of the minor designated by the Court, and if tangibles are valued in excess of \$ 1,000, the Court may impose such conditions as it deems appropriate. The arrangement is unsupervised. If the tangible personal property is of significant value, distribution under the Uniform Transfers to Minors Act (see below) should be considered. It will provide more safeguards, as the custodian will be subject to statutory fiduciary standards of care.

Distribution of money to a restricted bank account (*D.C. Code § 20-1106(b)(2)*). -- The Court must approve the bank, the account is held in the name of the minor, there is no ongoing supervision of the arrangements, and the money may be withdrawn only upon court approval. Restricted accounts appear appropriate for small sums of money where there may be no need to invade the principal to meet the needs of the child. It is advisable if the restricted account is the selected method of distribution (i) to arrange for the bank statements to be forwarded to the minor in whose name the account is established, regardless of age, so that the minor will remain informed, and to the parent of the minor or the custodian of the minor; and (ii) to consult the financial institution to verify that restricted accounts are permissible.

Distributions under the Uniform Transfers to Minors Act (*D.C. Code § 20-1106(b)(3)*). -- The estate assets are held by a court-designated custodian on behalf of the minor in an unsupervised arrangement. Expenditures and investments may be made without court authority on behalf of the minor. The designated custodian under this act is accountable as a fiduciary under *D.C. Code §§ 21-312* and *21-313*. In this regard, care in the selection of the custodian is important because of the foregoing standards imposed.

Distributions of real estate to a custodian designated by the Court (*D.C. Code § 20-1106(b)(5)*). -- Distribution is made in the name of the minor to a custodian designated by the Court. Although it is an unsupervised arrangement, the property may be sold only with Court approval.

Court-appointed guardians (*D.C. Code § 21-106*). -- This is a supervised arrangement where the guardian serves under bond and files annual accountings. Court costs are assessed based on the estate value, and the guardian is responsible for annual bond premiums. The guardian must petition for authority to expend and invest estate assets on behalf of the minor. If small sums of money are involved, the guardianship of the estate of the minor may not be cost effective because of bond premium costs and the need to file petitions for court authority to make expenditures. Restricted accounts may be preferable. If significant assets are involved, one may wish to consider whether the minor's interest would be better served by the selection of a financial institution as the guardian, as opposed to an individual, in light of bond premium costs, since a financial institution may not be required to execute a bond if authorized under D.C. law to act as a fiduciary.

Lastly, the practitioner is referred to Wills, Trusts, and Estates (Bar Association of D.C. 1973) for further treatment of this area.