

NEW RULE

Idaho Court Administrative Rule 54.5. Idaho Department of Health and Welfare Evaluation Committee Reports

A. The Idaho Department of Health and Welfare Evaluation Committee must interview the person proposed to be under guardianship (“person”). The evaluation committee must also interview the petitioner and any proposed guardian or conservator.

B. In preparing reports, the evaluation committee must consider all available information concerning any proposed guardian, conservator, and individual who resides in or frequents the person’s proposed residence, including, but not limited to, information available to the evaluation committee pursuant to Idaho Code Section 66-404.

C. The evaluation committee must file a report with the court, signed by each committee member under oath or affirmation, which includes the following information:

1. A description of the person’s chronic disability and whether the individual meets the statutory definition of developmental disability found at IC 66-402(5), including an identification of the three functional limitations and a description of how the identified functional limitations are substantial limitations;
2. A description of the person's mental, emotional, and physical condition; educational status; and adaptive and social skills;
3. A description of the lifelong or extended duration of special care, treatment, or other services, including whether the person is on a Developmental Disability Waiver and whether the individual participates in person-centered planning, including the identity of the person-centered planning team members;
4. Approval or disapproval by the person concerning:
 - a) the proposed guardianship or conservatorship
 - b) the terms of the guardianship or conservatorship; or,
 - c) the proposed guardian or conservator.
5. The financial status of the person, including any public benefits or services;
6. The person’s understanding of his or her financial status;
7. Identify the areas where the person can or cannot achieve a rudimentary understanding of the purpose, nature, and possible risks and benefits of a decision after conscientious efforts at explanation, including, but not limited to, the nature of the proceedings;.

8. If the person is able to and wishes to attend the hearing;
9. Whether a convicted felon resides in or frequents the person's current or proposed residence;
10. Identity of all the people:
 - a) with a significant interest in the welfare of the person;
 - b) who should be informed of the proceedings;
 - c) who currently assist the person on a regular basis; and,
 - d) who may be available to assist the person on a regular basis.
11. Qualifications of the proposed guardian or conservator, including the following:
 - a) the nature and quality of their relationship with the person;
 - b) whether the proposed guardian or conservator is willing to permit the person to participate as fully as possible in all decisions which affect them;
 - c) whether the proposed guardian or conservator is willing to assist the person in meeting the essential requirements for the person's physical health and safety, protecting the person's rights, and managing the person's financial resources; and,
 - d) whether the proposed guardian or conservator is willing to assist the person in developing or regaining the person's abilities to the maximum extent possible.
12. The purpose and need for the guardianship or conservatorship;
13. Recommendations:
 - a) Whether a guardianship or conservatorship is necessary and why less intrusive alternatives are not appropriate;
 - b) What alternatives to guardianship or conservatorship have been explored or tried;
 - c) If a limited guardianship or conservatorship is recommended:
 - i) the specific limitations on the guardian's or conservator's authority; and,

ii) how the guardian or conservator will engage and involve the person in decision-making;

d) If a full guardianship or conservatorship is recommended:

i) why a limited guardianship or limited conservatorship is not appropriate; and,

ii) how the guardian or conservator will engage and involve the person in decision-making;

e) The appropriateness of the proposed guardian or conservator;

f) The appropriateness of the proposed guardian's care plan or conservator's financial plan;

g) The appropriateness of requiring a bond by the proposed conservator, taking into account the financial status of the proposed conservator;

h) The level of post-appointment case monitoring based upon the results of the Differentiated Case Management tool;

i) The need to reassess the guardianship or conservatorship periodically for review, modification, or restoration of rights; and,

14. The signature of each member of the evaluation committee with a statement of concurrence or non-concurrence with the findings and any dissenting opinions or other comments of the members.

D. Unless the court decides otherwise, the evaluation committee must provide copies of any filed reports to:

1. Petitioner;

2. Proposed guardian or conservator;

3. Any attorney of record; and

4. Person proposed to be under guardianship or conservatorship.