

**SUPREME COURT OF PENNSYLVANIA
Orphans' Court Procedural Rules Committee**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Rule 10.5 of the Pennsylvania Orphans' Court Rules

The Orphans' Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Rule 10.5 of the Pennsylvania Orphans' Court Rules regarding the written notice of estate administration by the personal representative for the reasons set forth in the accompanying Publication Report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

**Pamela S. Walker, Counsel
Orphans' Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9546
orphanscourtproceduralrules@pacourts.us**

All communications in reference to the proposal should be received by **May 7, 2021**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Orphans' Court Procedural Rules Committee,

Kenneth G. Potter, Esq.
Chair

Rule 10.5 Notice to Beneficiaries and Intestate Heirs

(a) Within three (3) months after the grant of letters, **[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:

...

Note: Rule 10.5 is **[substantively identical to] derived from** former Rule 5.6[.]. **Subparagraph (a) applies to all personal representatives, including a successor personal representative. [except that s]**Subparagraph (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 (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.

SUPREME COURT OF PENNSYLVANIA
Orphans' Court Procedural Rules Committee

PUBLICATION REPORT

Proposed Amendment of Rule 10.5 of the Pennsylvania Orphans' Court Rules

The Orphans' Court Procedural Rules Committee ("Committee") is considering proposing to the Supreme Court of Pennsylvania the amendment of Rule 10.5 of the Pennsylvania Orphans' Court Rules ("Rules"). The proposed amendments are intended to clarify that all personal representatives, including successor personal representatives, are required to send written notice of estate administration as provided in Rule 10.5(a).

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 correspondence questioned if "original" was intended to denote "initial" letters, since all letters issued by a register of wills are original letters. Further, this raises the question of whether a successor personal representative is required to provide notice of estate administration if the initial personal representative failed to do so or even provide notice of the change in personal representatives to the interested persons.

The Committee agreed that estate beneficiaries and intestate heirs should receive the notice of estate administration by a successor personal representative. Requiring successor personal representatives to notify the interested persons of the change in representative ensures the recipients are aware of the change and know to whom they should look for information going forward.

The Committee proposes 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 proposes amending the Note to Rule 10.5 to clarify that the notice requirement applies to all personal representatives, including successor personal representatives. Finally, changes are proposed to the Note to clarify that Rule 10.5 is derived from former rule 5.6 rather than substantively identical.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.