

FIDUCIARY AUDIT ATTRIBUTES

**Legend: P=Public Fiduciary, B=Business,
C=Conservator. G=Guardianship, PR=Personal Representative**

The fiduciary attributes listed below are the basis for the fiduciary compliance audit work program. The attributes are currently existing Arizona Revised Statutes (“ARS”), court rules and Arizona Code of Judicial Administration (“ACJA”) sections¹ which mandate an action by a fiduciary. Only a statute, rule and/or ACJA section is/are included as an attribute if the fiduciary must (“shall”) perform an action. Actions detailed in statute, rule and ACJA sections which are permissive (“may”) are not included for audit compliance testing.

This set of fiduciary attributes will be continually modified as the result of statute, code and rule amendments/adoptions.

1. The fiduciary will perform all duties and discharge all obligations in compliance with current Arizona law and the administrative rules, administrative orders, Arizona Code of Judicial Administration §§ 7-201: General Requirements and 7-202: Fiduciaries. **G, C, PR**
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(7).*
2. A fiduciary will not sell, transfer or assign their certification to any other entity.
 - *Arizona Code of Judicial Administration § 7-201, General Requirements (E)(5).*
3. Each fiduciary certificate holder must adhere to the Fiduciary Code of Conduct, subsection (J) of ACJA, adopted by the Arizona Supreme Court. **G, C, PR**
 - *Arizona Code of Judicial Administration § 7-201, General Requirements (F)(1).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(1).*
4. A fiduciary must conduct business in the legal name of the individual or business entity. **B**
 - *Arizona Code of Judicial Administration § 7-201, General Requirements (F)(3).*
5. A fiduciary must respond to requests for information and provide to the requesting individual the documents pertaining to complaints alleging misconduct by the fiduciary, investigative inquiries by the director, program coordinator or

¹ Arizona Code of Judicial Administration, Administrative Office of the Courts, Certification and Licensing Programs, §§ 7-201: General Requirements and 7-202: Fiduciaries effective January 1, 2007.

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- program staff, and any audits or reviews of the fiduciary and/or their business. **G, C, PR**
- *Arizona Code of Judicial Administration § 7-201, General Requirements (F)(4).*
6. A fiduciary must not knowingly make a false statement of material fact or law to a tribunal; or fail to disclose a material fact to a tribunal, except as required by applicable law and must notify division staff within ten days of a misdemeanor or felony conviction. **G, C, PR**
- *Arizona Code of Judicial Administration §7-201, General Requirements (F)(5)(a)&(b).*
7. All fiduciary certificate holders must notify division staff in writing within 30 days of any change in name, directory, mailing or home address, telephone number or email address. **G, C, PR**
- *Arizona Code of Judicial Administration § 7-201, General Requirements (F)(6).*
8. The certified entity (business) must supply division staff with the name of and an executed principal form of the newly designated principal within 30 days after the designated principal provided notice to department, the county board of supervisors, or business entity the principal is no longer able or willing to serve. **B, P, ADVS**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(2)(a).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(3)(a).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(4)(a).*
9. The principal must adopt policies and procedures giving reasonable assurance all certified fiduciaries conform to the applicable rules, statutes and code sections and non-certified staff conduct themselves in accordance with the applicable rules, statutes and code sections. **B, P, ADVS**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(2)(a).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(3)(a).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(4)(a).*
10. Not less than one certified person may assume the primary responsibility for each court appointment. **B, P, ADVS**

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- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(2)(d).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(3)(c).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (E)(4)(c).*
11. A. A fiduciary must notify the division staff within 30 days if they are no longer associated with a business, a public fiduciary office or ADVS.
B. A business, a public fiduciary office or ADVS must notify the division staff within thirty days when an employee who is a certified fiduciary leaves their employ. **B, P, ADVS**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(2)(b).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(2)(c).*
12. Each document filed with the superior court must include the fiduciary's personal certificate number on the document and when appropriate, the business entity's number. **G, C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(3).*
13. A certified fiduciary must report any bankruptcies, tax liens, foreclosures, civil judgments, court removals or sanctions, or felony convictions to the division staff, in writing within 30 days and provide a copy of all pertinent documents. **G, C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(4).*
14. A fiduciary supervising a trainee must maintain the primary responsibility for the client or estate and must not delegate this duty to any trainee. **G, C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(5)(a).*
15. A fiduciary must notify division staff if they have knowledge of another fiduciary committing misconduct raising a question as to the fiduciary's honesty, trustworthiness or qualifications as a certified fiduciary. **G, C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(6).*
16. A fiduciary must not prepare powers of attorney or other legal documents unless they are certified as a Legal Document Preparer except if ordered by the court. This does not apply to the Arizona Department of Veterans Services. **B**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(2)(g).*

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17. A fiduciary must disclose to the public, ward or client their supreme court certification does not pertain to a power of attorney, trust or legal custodian for the federal veterans' services division. **G, C, PR**
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(2)(h).*
18. A fiduciary must visit the ward no less than quarterly and as often as necessary to ensure the client's well-being. If the ward is located outside the county or state, the fiduciary's qualified representative shall make the necessary visits. **G**
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (F)(3).*
19. A fiduciary will not co-mingle any property or assets of a client's estate with other estates or with their own property or assets. **C, PR**
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(c).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(5)(c).*
20. A fiduciary will manage the income of the estate with the goal of providing for the needs of the protected person and (in some cases) their dependents. **C**
 - *Arizona Code of Judicial Administration §7-202, Fiduciaries (J)(4)(d).*
21. A fiduciary will exercise prudence investing surplus funds of the estate. **C**

Arizona Code of Judicial Administration §7-202, Fiduciaries (J)(4)(e).
22. A fiduciary must seek approval from the superior court prior to expending funds to make gifts consistent with the wishes or past behavior of the ward. **C**
 - *ARS § 14-5408(A)(4)*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(f).*
23. A fiduciary must avoid self-dealing and the appearance of self-interest or conflict of interest. If the appearance of a conflict of interest is unavoidable, the fiduciary will disclose such to the court, seeking approval to proceed. **G, C, PR**
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(2)(b).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(g).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(5)(f).*

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24. A fiduciary must ensure the protected person is receiving all medical and financial benefits to which they are entitled. **G, C**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(q).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(h).*
25. A fiduciary must ensure all fees and expenses incurred for the protected person or on behalf of the estate by the fiduciary, including their fees for services, are reasonable in amount and necessarily incurred for the welfare and/or administration of the protected person/estate. **C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(i).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(5)(g).*
26. A fiduciary must prepare complete, accurate and understandable accountings and court documents. **C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(2)(f).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(j).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(5)(h).*
27. A fiduciary must prepare timely accountings and court documents. **C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(2)(e).*
28. A fiduciary acting as a personal representative must observe the standards of care and duties of accounting applicable to trustees. **PR**
- *ARS § 14-7302*
 - *Arizona Code of Judicial Administration §7-202, Fiduciaries (J)(5)(d).*
29. A fiduciary must protect the rights of the ward or protected person against infringement by third parties. **G, C**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(2)(c).*
30. The fiduciary will diligently seek termination or limitation of the guardianship or conservatorship by assisting the ward or protected person and arranging for independent representation to pursue termination and promptly requesting court action. **G, C**
- *ARS § 14-5312(A)(7).*

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- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(6)(a).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(6)(b).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(6)(c).*
31. Upon appointment, the fiduciary must become informed of the statutory requirements for a guardian, managing a protected person's or decedent's estate. **G,C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(a).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(a).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(5)(a).*
32. A fiduciary must protect the rights, monetary interests and make decisions in the best interest of the ward/protected person when acting in a *de facto* conservatorship/guardianship. **G, C**
- *ARS § 46-451(A)(2) & (3)*
 - *ARS § 46-455(A)*
 - *ARS § 46-456*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(r).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(k).*
33. The fiduciary acting as a guardian must keep informed and aware of the options and alternatives available for establishing the ward's place of residence. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(b).*
34. The fiduciary acting as a guardian must make decisions in conformity with the preferences of the ward when establishing the residence of the ward and when providing consent for the provision of care, treatment and services unless it would result in harm to the ward. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(c).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(i).*
35. When it is not possible to determine the ward's preferences or result in substantial harm, the fiduciary must make decisions about the ward's residence, care, treatment and services based on what is in the best interests of the ward. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(d).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(j).*

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36. Unless it is necessary to prevent substantial harm, the fiduciary must not remove the ward from his home or separate him from family and friends. The fiduciary must make every reasonable effort to ensure the ward resides at home or in a community setting. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(e).*
37. Working cooperatively with available individuals and organizations, the fiduciary must seek professional evaluations and assessment whenever necessary to determine if the current or proposed placement of the ward, current or proposed care, treatment and services represents the least restrictive environment or intervention available for the ward and are consistent with the wishes or best interests of the ward. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(f).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(l).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(m).*
38. To ensure continued appropriateness of the placement, the fiduciary will monitor the ward's placement and consent to changes as they become necessary or advantageous. **G**
- *Arizona Code of Judicial Administration §7-202, Fiduciaries (J)(3)(g).*
39. The fiduciary will advocate for the rights of the ward, negotiate a more desirable placement with minimum delay and retain legal counsel for assistance, if necessary when the ward's current placement is not the most appropriate or least restrictive. **G**
- *Arizona Code of Judicial Administration §7-202, Fiduciaries (J)(3)(h).*
40. If the only available treatment, care or services are not the most appropriate and least restrictive, the fiduciary must advocate for the right of the ward to a more desirable form of treatment, care or services, retaining legal counsel to assist if necessary. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(k).*
41. The fiduciary must not consent to extraordinary medical procedures without prior authorization from the superior court. Prior court approval is required for abortion, sterilization, organ transplants, psycho surgery, electro-convulsive therapy,

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prohibited religious medical treatment and any other medical treatments or interventions the court must approve based on state law. **G**

- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(n).*
42. The fiduciary must keep abreast of state law regarding the withholding or withdrawal of life-sustaining treatment. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(o).*
43. The fiduciary must monitor the care, treatment and services the ward is receiving to ensure continued appropriateness consenting to changes if they become necessary or advantageous to the ward. **G**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3)(p).*
44. The fiduciary must resolve questions in good faith and make decisions that are most beneficial to the estate. **C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(5)(e).*
45. Whenever possible, the fiduciary will provide all pertinent information to the ward or protected person unless substantial harm will result from providing this information. **G, C**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(2)(d).*
46. The fiduciary must take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible, providing stewardship of the property for safekeeping and, at a minimum, record pictorially and establish and maintain accurate records of all real and personal property. **C, PR**
- *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(4)(b).*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(5)(b).*
47. Beginning the formal testacy proceeding, the fiduciary must provide the required notice to the appropriate individuals within the prescribed time in the manner specified by law: **PR**

Notice to: Any interested person or his attorney.
Surviving spouse.
Children and other heirs of the decedent.
Devises and executors.

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Other personal representative.

Notice by: By mail.
Or if unusual circumstances, by registered mail to alleged decedent.
For unknown individuals, by publishing 3 times prior to hearing date in a newspaper of general circulation.

When: At least 14 days prior to hearing.

- *ARS § 14-1401*
- *ARS § 14-3403*

48. A fiduciary acting as a supervised personal representative must file an account with the court not less than annually and when closing a file must file a final account requiring approval. “In connection with any account, the court may require the personal representative to submit to physical check of the estate in his control, to be made in any manner the court may specify.” **PR**

- *ARS § 14-3505 (B)*

49. A fiduciary will file with the court any required bond or give other suitable security in an amount that represents the fiduciaries best estimate of the value of the personal estate of the protected person or decedent minus any restrictions contained in the court letters. **C, PR**

- *ARS § 14-3604*
- *ARS § 14-3606*
- *ARS § 14-7304*

50. A fiduciary appointed as a personal representative must give 15 days written notice to the court and to persons known to be interested in the estate of his intention to resign his position. **PR**

- *ARS § 14-3610 9(C)*

51. A fiduciary must proceed expeditiously with the settlement and distribution of a decedent’s estate and, except as otherwise ordered, do so without adjudication. **PR**

- *ARS § 14-3704*

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52. Not later than 30 days after appointment a fiduciary will notify the heirs and devisees of their appointment by delivery or by first class mail. **PR**
- *ARS § 14-3705*
53. Within 90 days of his appointment, a fiduciary must prepare an inventory of property owned, listing with reasonable detail, and indicating as to each listed item, its fair market value as of the date of death, whether it is community or separate property and the type and amount of any encumbrance that may exist. **PR**
- *ARS § 14-3706*
54. A fiduciary must make a supplementary inventory and file with the court or furnish copies to interested persons if any property not included in the original inventory is discovered or if the fiduciary learns that the value or description in the original inventory is incorrect. **PR**
- *ARS § 14-3708*
55. The fiduciary must take possession or control of, the protected person's or decedent's property with some exceptions for persons presumptively entitled to it. **PR**
- *ARS § 14-3709*
56. The fiduciary must pay taxes on and take all steps reasonably necessary for the management, protection and preservation of the estate. **PR**
- *ARS § 14-3709*
57. A fiduciary appointed as a personal representative must publish a notice to creditors once a week for three successive weeks in a paper of general circulation announcing their appointment and their address. This also serves to notify creditors of the estate to present their claims within the required period. **PR**
- *ARS § 14-3801 (A)*
58. A fiduciary appointed as a personal representative must mail a notice (or other delivery) to all known creditors, notifying them of the fiduciary's appointment, to present their claim within four months after the published notice or within 60 days of the mailed notice whichever is later, or be forever barred. **PR**

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- *ARS § 14-3801 (B)*
59. If the assets of the estate are insufficient to pay all of the claims in full, a fiduciary appointed as a personal representative must make payments in the following order: **PR**
- 1) Costs and expenses of administration
 - 2) Reasonable funeral expenses
 - 3) Debts and taxes with preference under federal law
 - 4) Medical and hospital expenses of the last illness
 - 5) Debts and taxes
 - 6) All other claims
- *ARS § 14-3805*
60. A fiduciary appointed as a personal representative must provide an instrument or deed of distribution for any transfer in kind which would transfer or release the assets to the distributee as evidence of distributee's title to the property. The names and addresses of each distributee must be included in any instrument of distribution which transfers title to real property. **PR**
- *ARS § 14-3907*
61. A fiduciary must use a properly executed power of attorney (POA) to delegate to another person, for a period not exceeding six months, his powers regarding care, custody or property of the minor or ward. **G**
- *ARS § 14-5104*
62. Prior to appointment as a guardian or conservator, a fiduciary must provide to the court, under oath, an affidavit of disclosure requirements of information specified by statute and local rule. **G, C**
- *ARS § 14-5106 (see for specific information requirements – public fids not required)*
63. A fiduciary must give written notice of acceptance of appointment as guardian to the minor and also to either the person having his care or the minor's nearest adult relation. **G**
- *ARS § 14-5202*

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64. A fiduciary petitioning for formal appointment as guardian of a minor must give notice of the time and place of the hearing to: **G**

Notice to: A minor who is at least fourteen years of age
The person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition.
Any living parent of the minor.

Notice by: By mail.
Or if unusual circumstances, by registered mail to alleged decedent.
For unknown individuals, by publishing 3 times prior to hearing date in a newspaper of general circulation

When: At least 14 days prior to hearing.

- *ARS § 14-5207*
65. A fiduciary appointed as a guardian of a minor must: **G**
- Become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know their capacities, limitations, needs, opportunities and physical and mental health.
 - Take reasonable care of the ward's personal effects.
 - Apply any available monies of the ward to the ward's current needs for support, care and education.
 - Conserve any excess monies for the ward's future needs, but if a conservator has been appointed for the estate of the ward, the guardian, at least quarterly, shall pay to the conservator money of the ward to be conserved for the ward's future needs.
 - Report the condition of the ward and the ward's estate as ordered by the court on petition of any interested person or as required by court rule.
- *ARS § 14-5209(A) (de facto conservator actions)*
66. A fiduciary acting as a guardian may not resign or terminate their responsibility or authority to the ward until the court approves the termination of guardianship. **G**
- *ARS § 14-5210*
67. If a fiduciary petitions for appointment as a guardian or for any other protective order the petition must state, to the extent known: **G**
- The interest of the petitioner.
 - The name, age, residence and address of the alleged incapacitated person.

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- The name, address and priority for appointment of the person whose appointment is sought.
 - The name and address of the conservator, if any, of the alleged incapacitated person.
 - The name and address of the nearest relative of the alleged incapacitated person known to the petitioner.
 - A general statement of the property of the alleged incapacitated person, with an estimate of its value and including any compensation, insurance, pension or allowance to which the person is entitled.
 - The reason why appointment of a guardian or any other protective order is necessary.
 - The type of guardianship requested. If a general guardianship is requested, the petition must state that other alternatives have been explored and why a limited guardianship is not appropriate. If a limited guardianship is requested, the petition also must state what specific powers are requested. **G**
- *ARS § 14-5303(B)*
68. Upon appointment as a guardian by the court, the fiduciary must file an acceptance of appointment with the appointing court. **G**
- *ARS § 14-5304(D)*
69. A fiduciary appointed as a guardian must provide for the care, comfort and maintenance of the ward and, if appropriate, arrange for the ward's training and education. The fiduciary will also take reasonable care of the ward's clothing, furniture, vehicles and other personal effects. In addition, the fiduciary will begin protective proceedings if other property of the ward is in need of protection. **G**
- *ARS § 14-5312(A)(2)*
70. A fiduciary acting as a guardian may not use funds from his ward's estate for room and board the fiduciary or his spouse, parent or child has furnished unless a charge for the service is approved by court order and notice is given to at least one of the next of kin, if possible. **G**
- *ARS § 14-5312(A)(4)(b)*
71. A fiduciary acting as a guardian must conserve any excess funds for the ward's needs. **G**
- *ARS § 14-5312(A)(4)(b)*

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72. A fiduciary acting as a guardian must report the condition of the ward and of the estate as required by the court or court rule. **G**
- *ARS § 14-5312(A)(5)*
73. If a conservator has been appointed, a fiduciary acting as a guardian must pay to the conservator for management any and all funds in excess of funds needed to meet current expenses of the ward. **G**
- *ARS § 14-5312(A)(6)*
74. A fiduciary acting as a guardian will encourage the ward to develop maximum self-reliance and independence. **G**
- *ARS § 14-5312(A)(7)*
75. A fiduciary acting as a guardian will find the most appropriate and least restrictive setting for their ward consistent with the ward's needs, capabilities and financial ability. **G**
- *ARS § 14-5312(A)(8)*
 - *Arizona Code of Judicial Administration § 7-202, Fiduciaries (J)(3).*
76. A fiduciary acting as a guardian must make reasonable efforts to secure appropriate medical and psychological care, financial benefits and social services for their ward. **G**
- *ARS § 14-5312(A)(9)*
77. A fiduciary acting as a guardian must make reasonable efforts to obtain appropriate training, education and social and vocational opportunities for their ward. **G**
- *ARS § 14-5312(A)(10)*
78. A fiduciary acting as a guardian must take into consideration their ward's values and wishes when making decisions for the ward. **G**
- *ARS § 14-5312(A)(11)*

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79. When a ward is an incapacitated adult with a developmental disability, the fiduciary acting as a guardian must pursue services which are in the best interest of the ward considering: **G**
- Ward's age
 - Degree or type of developmental disability
 - Other handicapping conditions
 - Developing the ward's maximum potential, provide minimally structured residential program and environment and to provide a safe, secure and dependable residential and program environment
 - Desires of the ward
- *ARS § 14-5312(A)(13)*
80. If a ward has both an appointed guardian and a conservator, the guardian must control the custody and care of the ward. **G**
- *ARS § 14-5312(B)*
81. A fiduciary acting as a guardian must give notice within forty-eight hours of placement of the ward in an inpatient mental health care facility to the ward's attorney. **G**
- *ARS § 14-5312.01(D)*
82. A fiduciary acting as a guardian must provide the level one behavioral health treatment facility of their ward with the name, address and phone number of the ward's attorney. **G**
- *ARS § 14-5312.01(F)*
83. When a guardian is notified by the medical director of the inpatient facility that the ward no longer needs inpatient care, the guardian must place the ward within ten days in the least restrictive alternative. **G**
- *ARS § 14-5312.01(I)*
84. A guardian authorized by the court to consent to inpatient mental health care and treatment must file with the annual report an evaluation report by a physician or a psychologist indicating if the ward currently needs inpatient care and treatment. If the guardian fails to file the evaluation report or the report indicates that the ward does not need inpatient care, the guardian's authority to consent to this treatment ceases. **G**

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- *ARS § 14-5312.01(P)*
85. A fiduciary acting as a guardian must submit a written report to the court: **G**
- On each anniversary date of qualification as guardian
 - On resignation or removal as guardian
 - On termination of the ward's disability
- *ARS § 14-5315(A)*
86. A fiduciary acting as a guardian must mail a copy of the preceding (annual) report to: **G**
- Ward
 - Ward's conservator
 - Ward's spouse or parents, if not married
 - Court appointed attorney
 - Any other interested person who has filed a demand for notice
- *ARS § 14-5315(B)*
87. A fiduciary acting as a guardian must include in the annual report the following information: **G**
- Type, name, address of the home or facility and the facility's person in charge
 - Number of times the guardian has seen the ward in the last twelve months
 - Date the guardian last saw the ward
 - Name and address of the ward's physician
 - Date the ward was last seen by a physician
 - Copy of the ward's physician's report or summary of observations on the ward's physical and mental condition
 - Observed major changes in the ward's physical or mental condition
 - Opinion whether the guardianship should be continued
 - Summary of services provided to the ward by a governmental agency and the name of the responsible individual.
- *ARS § 14-5315(C)*
88. The fiduciary seeking to be appointed conservator must provide the required notice to the appropriate individuals within the prescribed time in the manner specified by law: **C**
- Notice to:
- Protected person if over fourteen years old
 - Any interested person who has filed a demand for notice.
 - Spouse.
 - Adult children and parents or

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At least one adult relative
Any person serving as guardian.

Notice by: Served personally to protected person, spouse and parents
Or if unusual circumstances, by registered mail.
For unknown individuals, by publishing 3 times prior to
hearing date in a newspaper of general circulation.

When: At least 14 days prior to hearing.

- *ARS § 14-5405*

89. A fiduciary appointed as a conservator must provide to the court a bond in an amount specified by the court. The bond amount will be the aggregate capital value of the estate in the fiduciary's control plus one year's estimated income minus the restricted assets. **C**

- *ARS § 14-5411(A)*

90. Compensation payable to the Department acting as a conservator must not be more than five (5%) per cent of the amount of monies received during the conservatorship period. **ADVS**

- *ARS § 14-5414(B)*

91. A fiduciary appointed as a conservator must observe the standard of care applicable to trustees which is the standard observed by a prudent man dealing with the property of another and if the fiduciary has special skills or expertise; he is under a duty to use those skills. **C**

- *ARS § 14-5417*
- *ARS § 14-7302*
- *ARS § 14-7602(F)*

92. Within ninety days after appointment, a fiduciary appointed as a conservator must prepare and file with the court an inventory of the estate of the protected person. The inventory must list with reasonable detail and indicate the fair market value of the estate as of the date of appointment of each item listed. **C**

- *ARS § 14-5418(A)*

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93. A fiduciary appointed as a conservator must provide a copy of the inventory to the protected person if they can be located, are at least fourteen years old and have sufficient mental capacity, to any parent or guardian with whom the person resides and to the veterans' administration office if requested. **C**
- *ARS § 14-5418(B)*
 - *ARS § 14-5419(E)—ADVS*
94. A fiduciary appointed as a conservator must keep suitable records of the conservator's administration and exhibit the records on request of any interested person. **C**
- *ARS § 14-5418(B)*
95. A fiduciary appointed as a conservator must account to the court annually on the anniversary date of the appointment and on resignation or removal, and on termination of the protected status. **C**
- *ARS § 14-5419(A)*
 - *See local rules*
92. A fiduciary appointed as a conservator must petition, notice and have a court hearing before an adjudication allowing an intermediate or final accounting. **C**
- *ARS § 14-5419(C)*
96. A fiduciary appointed as a conservator must have court approval after notice to interested persons and others as required by the court for any sale or encumbrance to the conservator, his spouse, agent or attorney, or any corporation or trust in which he has a beneficial interest or any transaction which may appear to be a conflict of interest. **C**
- *ARS § 14-5422*
97. A fiduciary appointed as a conservator must follow the listed principals in order to expend or distribute income or principal of the estate without court authorization: **C**
- Consider recommendations relating the appropriate support, education and benefit for the protected person made by a parent or guardian, if any.
 - Expend or distribute sums reasonably necessary for the benefit of the protected person or their dependents with regard to the size of the estate,

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probable duration of the conservatorship, the accustomed standard of living of the protected person, and other funds or sources used for support.

- If a minor, the financial resources and responsibility of the parents, extraordinary custodial responsibilities and the effect on the gainful employment of the parent, the child's medical and educational needs and whether the child is permanently and totally disabled, the standard of living the child should reasonably expect.
- Expend funds of the estate for the support of persons legally dependent on the protected person and others of the protected person's household.
- ADVS—Income may be expended only for the support of the protected person, spouse and minor children.
- To the extent possible, make gifts on behalf of the protected person out of the estate to donees and in amounts consistent with the protected person's best interests and intentions.

- *ARS § 14-5425(A)*

98. A fiduciary appointed as a conservator must pay over, after meeting all prior claims and expenses of administration, and distribute all funds and properties as soon as possible once a minor protected person attains majority or if the protected person's disability, other than minority, has ceased. **C**

- *ARS § 14-5425(B)*
- *ARS § 14-5425(C)*

99. A fiduciary appointed as a conservator must file the will of his deceased protected person with the court and inform the personal representative or named beneficiary. The fiduciary will remain in control of the estate for delivery to the appointed personal representative or other entitled persons. **C**

- *ARS § 14-5425(D)*

100. A fiduciary appointed as a conservator must take into consideration any estate plan of the protected person that is known. **C**

- *ARS § 14-5427*

101. A fiduciary appointed as a conservator must pay from the estate all just claims against the estate and the protected person from before or after the conservatorship upon their presentation and allowance. **C**

- *ARS § 14-5428(A)*

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102. A public fiduciary must direct that all funds coming into his custody to be deposited into the county treasury or an insured bank, savings and loan, or credit union. These funds can only be withdrawn at the direction of the public fiduciary. **P**
- *ARS § 14-5603(A)*
103. A public fiduciary can establish or continue an estate or investment plan of his ward if: **P**
- The court gives approval
 - The plan is consistent with the appropriate standards of care
 - If the court directs, the fiduciary has obtained a surety bond in the amount of the assets within the plan
- *ARS § 14-5603(B)*
104. A public fiduciary cannot take an annual assessment in lieu of bond from the ward's estate if they are eligible for supplemental security income benefits or would be eligible if that person were not in a public institution. **P**
- *ARS § 14-5604(A)*
105. All funds claimed or assessed against an estate by a public fiduciary must be paid to the county treasurer for deposit in the county general fund. **P**
- *ARS § 14-5604(B)*
106. If a public fiduciary acts with a statement of administration and later finds that the estate exceeds twenty thousand dollars, the fiduciary must apply for letters for the estate. **P**
- *ARS § 14-5605(B)*
107. If the public fiduciary finds the names and whereabouts of persons believed to be heirs or devisees of the estate who are not shown in the statement of administration, a supplemental statement must be filed reflecting the new information. **P**
- *ARS § 14-5605(C)*
108. Within twelve months from the filing of the statement of administration, the public fiduciary must file an accounting and a proposed distribution and claim for fees if the estate is ready to be settled; and, if not ready, a statement explaining the

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- delay. If the estate is still not settled subsequent accountings and explanations must be filed annually until the estate is settled. **P**
- *ARS § 14-5605(E)*
 - *See local rules*
109. The public fiduciary must mail, by certified mail, a copy of the accounting, fee claim and proposal for distribution to the heirs, devisees, known creditors and other persons who have demanded notice. **P**
- *ARS § 14-5605(F)*
110. If the public fiduciary chooses to file with the court a petition to preserve and protect estate property, the petition must include the following: **P**
- Name and domicile of decedent
 - Date and place of death
 - Names, addresses and relationships of known heirs or devisees
 - Declaration that the gross assets of the estate are believed to exceed \$20,000
 - Declaration that no one is eligible to act as a personal representative
 - Declaration that immediate action is necessary to make and pay for funeral arrangements or to preserve and protect the estate
- *ARS § 14-5606(A)*
111. If the court grants the petition, the public fiduciary must send a copy of the petition and court order to each known heir, devisee and interested party within ten business days. **P**
- *ARS § 14-5606(C)*
112. If the public fiduciary receives notice of the appointment of a personal representative of the estate or receives affidavits for succession to real or personal property, he must immediately transfer to the personal representative or affiant control and possession of the property and file an accounting and claim for fees with the court with copies, sent by certified mail, to the heirs, devisees and interested parties. **P**
- *ARS § 14-5606(G)*
113. A fiduciary appointed as a trustee must keep the beneficiaries of the trust reasonably informed of the trust and its administration. In addition: **PR**

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- Within thirty days after acceptance of the trust, the trustee must inform the beneficiaries of the trustee's name and address;
 - Provide the beneficiary with a copy of the terms of the trust upon reasonable request; and,
 - Provide an annual statement of accounts and on termination of the trust to the beneficiary upon request
- *ARS § 14-7303*
114. A fiduciary appointed as a trustee must administer the trust in accordance with the terms of the trust or the will impartially, based on what is fair and reasonable to all of the beneficiaries. **PR**
- *ARS § 14-7402*
 - *ARS § 14-7403*
115. After a decedent dies, a fiduciary of an estate must determine the amount of net income and net principal receipts received and distribute to the beneficiary who is to receive the specific property. **PR**
- *ARS § 14-7405*
116. A fiduciary appointed as a trustee must invest and manage trust assets as a prudent investor would, considering the purpose, term, distribution requirements and other circumstances using reasonable care, skill and caution. **PR**
- *ARS § 14-7602(A)*
117. A fiduciary appointed as a trustee must consider when investing and managing trust assets are any of the following: **PR**
- General economic conditions
 - Possible effect of inflation or deflation
 - Expected tax consequences of investment decisions or strategies
 - Role each investment or course of action plays within each portfolio
 - Expected total return from income and appreciation
 - Other resources of the beneficiaries
 - Need for liquidity, regularity of income and preservation or appreciation of capital
 - An asset's special value, if any to trust or beneficiaries
- *ARS § 14-7602(C)*

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118. A fiduciary appointed as a trustee must make a reasonable effort to verify facts relevant to investments and management of trust assets. **PR**
- *ARS § 14-7602(D)*
119. A fiduciary appointed as a trustee must diversify the investments of the trust unless better served without diversifying. **PR**
- *ARS § 14-7603*
120. A fiduciary appointed as a trustee must review the trust assets within a reasonable time after accepting trusteeship and make and implement decisions regarding the trust in keeping with its purposes and terms. **PR**
- *ARS § 14-7604*
121. A fiduciary appointed as a trustee must invest and manage the trust assets solely in the interest of the beneficiaries. **PR**
- *ARS § 14-7605*
122. Where there are two or more beneficiaries, a fiduciary appointed as a trustee must act impartially in investing and managing the trust assets. **PR**
- *ARS § 14-7606*
123. A fiduciary appointed as a trustee must only incur costs that are appropriate and reasonable. **PR**
- *ARS § 14-7607*