

PROBATE ADVISORY WORKGROUP MEETING

OCTOBER 26, 2017

Judicial Branch Public Administrators Performance Audit – August 2017

Recommendation #1

The Judicial Branch should implement mechanisms for collecting sufficient information from Public Administrators for the courts to assess the reasonableness of fees charged to and costs collected from decedents' estates and protected persons' accounts. This should include collecting information on the hourly rate, number of hours charged, and description of each distinct service provided, and providing guidance on the information that should be included in the small estate of accounts.

Response – Agree. Implementation Date: September 2018.

The Judicial Branch takes the responsibility for oversight of fiduciaries seriously. The Branch agrees with the recommendations and will convene a group of stakeholders, charged by the Chief Justice, to develop policies and procedures to address the issues identified in the audit. The group will obtain input, information and comments from the various entities to develop potential changes to court operations. The Branch will seek legislative and rule changes, as necessary.

The stakeholders have been identified and invited to participate and the first meeting is scheduled. The group will include judicial officers, Public Administrators, and court staff.

As a part of the charge, the group will address systems to collect and maintain data to assess the reasonableness of fees charged and costs collected by Public Administrators as well as providing guidance on the small estate statement of accounts.

Recommendation #2

The Judicial Branch should ensure that it collects and maintains the fundamental data needed to oversee the Public Administrator function in Colorado and to assess Public Administrator performance by:

- A.** Standardizing the format and content of Public Administrator annual reports and ensuring that they include the key elements needed to assess the performance of Public Administrators (e.g., total number of hours worked as a Public Administrator and total hours worked per case, tally of total caseload, cumulative fees for a given year and for each case, value of the estates, etc.) The Judicial Branch should then provide guidance to Public Administrators on the information required in the annual reports.
- B.** Revising the Judicial Resource Manual to specify that court staff must enter the code designating when a Public Administrator is appointed to an estate case, and assign a case number and record details on each small estate reported by Public Administrators, including those reported in a bundle.
- C.** Implementing mechanisms to collect and track key information related to Public Administrator performance.
- D.** Using the information obtained in Parts A, B, and C to assess the performance of Public Administrators and Deputy Public Administrators in the judicial districts to determine if the function is achieving its purpose.

Response

A. Agree. Implementation Date: September 2018.

The Judicial Branch agrees with the recommendation and will utilize the group identified in Recommendation No. 1 to address this issue. Specifically, the group will be charged with standardizing the format and content of Public Administrator annual reports by determining the most relevant data to be used in the assessment of the performance of Public Administrators. As part of this process, the Branch will develop and provide guidance to Public Administrators on the information required in the annual reports.

B. Agree. Implementation Date: September 2018

The Judicial Branch agrees with the recommendations and will update the Judicial Resource Manual (JRM) requiring that court staff enter the code designating when a Public Administrator is involved in a case and specify that the court must assign a case number for each Public Administrator's statement filed, including those reported in a bundle. In addition, we will require court staff to enter the code indicating the value of the estate cases.

C. Agree. Implementation Date: September 2018.

The Judicial Branch agrees with the recommendation and will utilize the group identified in Recommendation No. 1 to address this issue. Specifically, the group will determine the most efficient method and system to collect and track key information related to Public Administrators.

D. Agree. Implementation Date: September 2018.

The Judicial Branch agrees with the recommendation to use information obtained in parts A, B, and C to assess the performance of Public Administrators and Deputy Public Administrators.

Recommendation #3

The Judicial Branch should ensure that Public Administrators maintain bonds of sufficient value to adequately protect the estates and conservatorships they oversee by:

A. Implementing written policies and procedures to clarify that anyone appointed to act in the capacity of Public Administrator, including Deputy Public Administrators, must comply with the statutory bond requirements and that judicial districts should obtain proof from Public Administrators and Deputy Public Administrators that a bond has been procured, appropriately filed with the Secretary of State's Office, and updated as needed.

B. Assessing the level of bond that would sufficiently cover the activities of Public Administrator's pursuing any necessary changes to the statutory bond amount based on this assessment, and providing guidance to the judicial districts and courts on bond amounts for Public Administrators.

Response

A. Agree. Implementation Date: September 2018.

The Judicial Branch agrees with the recommendation and will utilize the group identified in Recommendation No. 1 to address this issue. Specifically, the group will develop policies and procedures clarifying that Public Administrators and Deputy Public Administrators must comply with the statutory requirements for bonds, including providing proof that the bond was filed and updated appropriately with the Secretary of State.

B. Agree. Implementation Date: September 2018.

The Judicial Branch agrees with the recommendation and will utilize the group identified in Recommendation No. 1 to address this issue. Specifically, the group will review the appropriate statutory level of bond amount that would sufficiently cover Public Administrator activities.

Recommendation #4 – Department of the Treasury

Recommendation #5

The Judicial Branch should ensure that undistributed funds from decedents' estates are handled in accordance with statute by:

A. Working with the Department of the Treasury to provide guidance and training to Public Administrators on the distinction between decedents' funds and other unclaimed property, and the methods for transferring undistributed funds from decedents' estates to the Department of the Treasury and reporting these transfers to the Attorney General's Office.

B. Working with the Public Administrators and the Department of the Treasury to determine if there are additional decedents' funds that have been improperly deposited into the Unclaimed Property Fund and correcting any errors identified.

Response

A. Agree. Implementation Date: March 2018.

The Judicial Branch agrees with the recommendations and will coordinate with the Department of the Treasury to provide guidance and training on the information fiduciaries should provide when transferring funds from decedents' estates.

B. Agree. Implementation Date: March 2018

The Judicial Branch agrees with the recommendation and will work with the Department of the Treasury and Public Administrators to determine if there are additional decedents' funds that have been improperly deposited into the Unclaimed Property Fund, and will work with the Department of the Treasury to correct such errors.