

## EXPLANATORY REPORT

### AMENDMENTS TO THE ELECTRONIC CASE RECORD PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA

Effective January 1, 2022, upon the recommendation of the Administrative Office of Pennsylvania Courts, the Court amended Sections 1.00, 3.00, 3.10, 6.00, and 7.00 of the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania (ECR Policy)* to incorporate electronic case record information residing in the Guardianship Tracking System (GTS). GTS is a statewide application for courts to manage guardianship cases and track guardian compliance with annual reporting, and an online means of filing required reports by Pennsylvania guardians. The amendments are detailed below.

Section 1.00 has been amended to include a definition for GTS. The definitions for “electronic case records” and “office” were also amended to include GTS. In addition, the office of the clerk of the orphans’ court division has been added to the list of entities that are not included in the definition of “public.”

Section 3.00 has been amended to provide that information maintained in GTS is not accessible by the public, except for aggregate, statistical, and/or other data that does not identify an incapacitated person, as determined by AOPC. Information that would be accessible under the *ECR Policy* includes, for example: the name of guardians, whether a guardian has been paid, and when a guardian is terminated. The release of aggregate, statistical data that does not identify incapacitated persons reflects the general philosophy that detailed information in these sensitive cases should be safeguarded, while reinforcing the Judiciary’s commitment to open and accessible case records. See also the provisions in the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania (Case Records Policy)* regarding individual cases. Given the extensive financial, medical, and related sensitive information provided to a court in guardianship matters, these records are generally inaccessible pursuant to the *Case Records Policy* and other relevant legal authority. See, e.g., 20 Pa.C.S. § 5511(a) and *In re Estate of DuPont*, 2 A.3d 516 (Pa. 2010) (Proceedings related to the appointment of guardianship for incapacitated persons shall be closed to the public upon request of the alleged incapacitated person or his/her counsel). The amendments also include a reorganization of Section 3.00 for clarity.

The abbreviation of “IRB” appearing in Section 3.10(B)(2)(e) was replaced with “relevant Institutional Review Board.”

Section 6.00(C) has been amended to clarify that requests to correct an alleged error in an electronic case record in GTS must be submitted to, and responded to by, the clerk of the orphans’ court division. When the *ECR Policy* was originally implemented in 2007, the “Commentary” to Section 6.00 provided in part:

An important aspect of transparent electronic case records and personal privacy/security is the quality of information in the court record. The information in the UJS electronic case records should be complete and

accurate, otherwise incorrect information about a party to a case or court proceeding could be disseminated....

The power of the court to correct errors in its own records is inherent. Equity enjoys flexibility to correct **court errors** [emphasis added] that would produce unfair results...

...[T]his section permits a party to “fix” information that appears in an electronic case record which does not, for one reason or another, correctly set forth the facts contained in the official court record....

It is anticipated that those reviewing alleged errors [will] compare the information set forth in the electronic case record against official court record. If the information in the electronic case record and official court record is consistent, the request to correct the electronic case record should be denied. If the information is not consistent, the reviewer should determine, what, if any, corrections are needed to the electronic case record.

Reports and inventories filed by the guardian with the court, even when containing errors, are a part of the court’s official record. A party cannot use Section 6.00 to amend a party-filed document with the court which is a part of the court’s official record.

“Court errors”, such as data entry mistakes made by a member of the court staff which are readily apparent when reviewing the information in the electronic case record with the information residing in the court’s official record, are the focus of Section 6.00. When such an error is alleged by a party or party’s attorney, a review of the official record is necessary. Hence, the proper entity to perform a review of an error in GTS is the clerk of the orphans’ court division that maintains the official court record.

In addition, Section 7.00 has been amended to include that a copy of the *ECR Policy* shall be continuously available for public access in every court or office using GTS.