

Video 10

How to File a Grievance

Welcome to the New Mexico Court's guide on how to file a grievance against a guardian or conservator for a protected person.

In this video, we'll talk about what a grievance is and how it's filed against a guardian, a conservator, or a representative payee who is also a guardian or conservator.

WHAT IS A GRIEVANCE?

New Mexico law has set up a procedure for anyone to file a grievance with the judge. A grievance is a way to let the judge know that the guardian or conservator is not following the judge's orders or is not acting in the best interests of the protected person. It's an official court document that includes your name and contact number, as well as the details of what you believe is going on.

Grievances can be filed against a guardian, a conservator, or a representative payee who is also a guardian or conservator. A representative payee is an individual who receives certain federal payments, such as social security disability payments, on behalf of the protected person. If the grievance relates to a representative payee who is not also a guardian or conservator, you should contact the appropriate *federal agency*. The judge is not able to resolve these kinds of problems.

A grievance can be filed by any person interested in the well-being of a protected person. They may be aware of information that the guardian or conservator is not following the judge's orders; or that the representative payee (who is also a guardian or conservator) is not spending the protected person's money correctly. A grievance can also be filed by the protected person themselves against his or her own guardian or conservator.

WHY FILE A GRIEVANCE?

There are many reasons why you might file a grievance against a *guardian*. These include instances in which:

- the place where the protected person lives is unsafe;
- the protected person doesn't have access to proper food, healthcare, or medications;
- the protected person lacks sufficient or appropriate clothing and personal care items;
- family or friends are not being permitted to visit and there is no court order blocking visits;
- the guardian is physically, mentally, or sexually abusing the protected person or allowing someone else to abuse the protected person;
- the guardian is not participating in making necessary medical decisions; or
- the guardian is not fulfilling some other duty that we have not mentioned here.

There may also be situations where it's appropriate to file a grievance against a *conservator*. This includes instances in which a conservator is:

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- failing to protect the protected person's property, finances, or assets;
- failing to keep the protected person's money in a separate account;
- using the protected person's money or property for the conservator's own benefit;
- unnecessarily selling or otherwise getting rid of property belonging to the protected person;
- failing to provide adequate accounting of the protected person's assets; or
- failing to pay the protected person's bills.

Some instances for filing a grievance against a *representative payee* (who is also a guardian or conservator) may include the representative payee:

- failing to spend the money received on behalf of the protected person in a way that benefits the protected person;
- failing to keep the protected person's money in a separate account; or
- failing to provide an adequate accounting of the money received on behalf of the protected person.

HOW DO YOU FILE A GRIEVANCE?

You do not need an attorney to file a grievance. Use Form 4-999.1, which can be downloaded on the New Mexico Court's website. You can also ask for this form in person at the court, or you may choose to write a letter to the judge providing a detailed description of what you believe is happening. Whether you use the form or write a letter, you must provide your name and contact information because the grievance is an official court document. You cannot remain anonymous.

WHAT HAPPENS AFTER A GRIEVANCE IS FILED?

After a grievance is filed and reviewed, the judge may decide to hold a hearing. This is to discuss the reasons why you think someone is not doing a good job in their role of taking care of the protected person. The judge may also decide not to set a hearing if a similar grievance was filed within six months of your grievance, and action was already taken.

Remember, if you decide to file a grievance, it's important to give the judge clear and specific information about your concerns. You must be able to answer the following questions:

- What did the guardian or conservator do or fail to do?
- How did you find out?
- By raising this grievance, are you concerned for your safety, or for the safety of the protected person?
- Is there any paperwork that supports what you've stated?
- Have you already notified any other authorities about this behavior?

The court appreciates your concern for the protected person.