



Minnesota Judicial Branch Policy and Procedures

Policy Source:	State Court Administrator
Policy Number:	6.03a
Category:	Statewide Court Programs
Title:	Guardian Ad Litem System Program Standards
Effective Date:	July 1, 2007
Revision Date(s):	
Supersedes:	CCJ Administrative Policy #20
Contact:	Guardian ad Litem Coordinator, Court Services Division

Guardian Ad Litem System Program Standards

Pursuant to the General Rules of Practice for District Courts, Title X, Rule 902, the Office of the State Court Administrator shall establish Guardian ad Litem Program Standards. After reviewing the prior GAL System Program Standards, with the advice and input of the Court Operations Advisory Workgroup and the approval of the Judicial Council, the following administrative policy is issued.

I. MINIMUM QUALIFICATIONS FOR GUARDIAN AD LITEM SERVICE

Before a person may be recommended for service as a guardian ad litem, the person must satisfy the following minimum qualifications:

- (a) Have a BA or BS in psychology, social work, education, nursing, law, or child-related discipline OR have an equivalent combination of training, education or experience.
(Note: All current Guardians ad Litem who are satisfactorily performing their duties will be “grandfathered” in. This requirement is prospective from the effective date of the revision to the program standards).
- (b) have an abiding interest in children and their rights and needs;
- (c) have sufficient listening, speaking, and writing skills to successfully conduct interviews, prepare written reports, and make oral presentations;
- (d) not have been involved in any conduct or activity that would interfere with the person's ability to discharge the duties assigned by the court;
- (e) have knowledge and an appreciation of the ethnic, cultural, and socio-economic backgrounds of the population to be served;
- (f) have the ability to (1) relate to a child, family members, and professionals in a careful and confidential manner; (2) exercise sound judgment and good common sense; and (3) successfully discharge the duties assigned by the court;
- (g) not have been removed from a list of approved guardians ad litem following an unsatisfactory performance evaluation; and
- (h) have satisfactorily completed the pre-service training requirements set forth in these Standards, and demonstrated a comprehension of the responsibilities of guardians ad litem as set forth in the Rules of Guardian Ad Litem Procedure.

II. SELECTION OF GUARDIANS AD LITEM

A. Recruitment

The recruitment of persons to apply to be guardians ad litem shall be announced to the general public. Public announcements shall be made by, or under the direction of, the GAL program manager. Every public announcement shall contain an equal opportunity statement, and a reasonable, good faith effort shall be made to solicit applications from individuals whose gender and ethnic, racial, cultural, and socio-economic backgrounds reflect the diversity of the population the applicant is expected to serve.

Announcements shall be provided to tribal social service agencies and to public agencies and private organizations serving ethnic and cultural communities, and shall be placed in publications directed to ethnic and cultural communities in the county or counties to be served.

B. Application Process

Any person who desires to become a guardian ad litem shall be required to submit a completed State Court employment, volunteer application or Contract Consideration form and Supplemental GAL application. The application shall address the minimum qualifications set forth in these standards. Every completed application must be accompanied by a signed release of information authorization sufficient to enable the program coordinator to independently verify the facts set forth in the application and freely check into the applicant's background and qualifications.

C. Screening Process

Before an applicant is approved by the GAL program manager for inclusion on a list of guardians ad litem maintained by the District and State GAL Program Office: (a) the written application shall be reviewed, (b) the applicant shall be interviewed, (c) the applicant's references shall be contacted, (d) a criminal history, maltreatment record and personal background check shall be completed, and the State GAL Program Office shall be contacted to see if the applicant has been removed from the approved state list for cause.

D. Factors to be Considered in Selection of GAL for Case

All pertinent factors shall be considered in the identification and selection of the guardian ad litem to be appointed, including the age, gender, race, cultural heritage, and needs of the child; the cultural heritage, understanding of ethnic and cultural differences, background, and expertise of each available guardian ad litem, as those factors relate to the needs of the child; the caseload of each available guardian ad litem; and such other circumstances as may reasonably bear upon the matter. In every case, the goal is the prompt appointment of an independent guardian ad litem to advocate for the best interests of the child. To be appointed a guardian ad litem must meet the minimum qualifications set forth in these Standards, must have no conflict of interest regarding the case, and must be listed as an approved guardian ad litem.

No person shall be appointed as a guardian ad litem in any case governed by the Indian Child Welfare Act or the Minnesota Indian Family Preservation Act unless that person demonstrates knowledge and an appreciation of the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties and has completed the mandatory state-sponsored six (6) hour ICWA training or its equivalent.

III. OATH OR AFFIRMATION

Prior to performing the responsibilities of a guardian ad litem, the guardian ad litem shall take an oath or make an affirmation. At the discretion of the program coordinator or District GAL Manager, the oath may be taken or the affirmation made, at the time the guardian ad litem is placed on a list of approved guardians ad litem or at the time the guardian ad litem is appointed to a particular case, or at both times. A copy of the signed oath shall be retained in the GAL file.

IV. SUPERVISION, MANAGEMENT AND EVALUATION OF GUARDIANS AD LITEM

A. Support, Advice, and Supervision

The program coordinator and/or District GAL Manager shall be responsible to provide support, advice, and supervision to guardians ad litem serving in the district GAL program in a manner consistent with the employment status of the individual Guardian ad Litem. Independent contractor Guardians ad Litem will have their contracts managed in a manner consistent with best practices as provided by state sponsored training on procurement and contract management policy.

B. Performance Evaluation or Contract Review

The District GAL Manager, in conjunction with the program coordinator(s), shall provide for the periodic evaluation and/or contract review of the performance of all guardians ad litem serving in the judicial district. The evaluation shall be objective in nature and shall include a review of the cases assigned to the guardian ad litem; a review of the guardian ad litem's compliance with the continuing education requirements set forth in these Standards; compliance with the contract if the individual is a contractor; inquiries to judges presiding over cases in which the guardian ad litem was appointed; a review of complaints filed against the guardian ad litem, if any; follow-up background checks (required every three (3) years upon the anniversary date of the GAL); and such other information as may have come to the attention of the program manager or coordinator.

The evaluation and/or contract review shall be undertaken, at least in part, by means of a written performance evaluation or contract review instrument. A written record of the completed evaluation or contract review shall be maintained in the guardian ad litem's file. The performance of each guardian ad litem shall be evaluated/reviewed once during the first six months after the guardian ad litem is first appointed as a guardian ad litem and, thereafter, at least annually.

V. GENERAL RESPONSIBILITIES OF GUARDIANS AD LITEM

A. General Responsibilities

Consistent with the responsibilities set forth in Minnesota Statutes section 260.155, subdivision 4(b), and section 518.165, subdivision 2a, other applicable statutes and rules of court, and the appointment order entered pursuant to the GAL and Juvenile Protection Rules, in every family court and juvenile court case in which a guardian ad litem is appointed, the guardian ad litem shall perform the responsibilities set forth in clauses (1) to (14):

1. The guardian ad litem shall advocate for the best interests of the child.

Note on Contact with the Child

The guardian ad litem must have sufficient contact with the child to ascertain the best interests of the child. The frequency and duration of contact will vary from child to child depending upon the nature of the case, the age of the child, and the needs of the child. There is no specific benchmark with respect to frequency of contact.

2. The guardian ad litem shall exercise independent judgment, gather information, participate as appropriate in negotiations, and monitor the case, which activities must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case.
3. The guardian ad litem shall, as appropriate to the case, and as required by rule or law, make written and/or oral reports to the court regarding the best interests of the child, including conclusions and recommendations and the facts upon which they are based.
4. The guardian ad litem shall complete work in a timely manner, and advocate for timely court reviews and judicial intervention, if necessary.
5. The guardian ad litem shall be knowledgeable about community resources for placement, treatment, and other necessary services.
6. The guardian ad litem shall maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child.
7. The guardian ad litem shall, during service as a guardian ad litem, keep all records, notes, or other information confidential and in safe storage. At the conclusion of service, the guardian ad litem shall keep or destroy the notes and records in accordance with the requirements of the guardian ad litem program.
8. The guardian ad litem shall complete continuing education requirements, and seek advice as necessary from the program coordinator or, if the program coordinator is not available, from the District GAL Manager.
9. The guardian ad litem shall treat all individuals with dignity and respect while carrying out her or his responsibilities.
10. The guardian ad litem shall be knowledgeable about and appreciative of the child's religious background and racial or ethnic heritage, and sensitive to the issues of cultural and socio-economic diversity, and in all cases governed by the Indian Child Welfare Act or the Minnesota Indian Family Heritage Preservation Act shall apply the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.
11. The guardian ad litem shall use the guardian ad litem appointment and authority appropriately to advocate for the best interests of the child, avoid any impropriety or appearance of impropriety, and not use the position for personal gain.
12. The guardian ad litem shall comply with all state and federal laws regarding the reporting of child abuse and/or neglect.
13. The guardian ad litem shall inform individuals contacted in a particular case about the role of the guardian ad litem in the case.

14. The guardian ad litem shall ensure that the appropriate appointment and discharge documents are timely filed with the court.

Considering the Child's Wishes

The role of a guardian ad litem is to advocate for the best interests of the child, which interests may or may not conflict with the wishes of the child. In arriving at a recommendation as to the child's best interests, one factor that may be considered by the guardian ad litem, as appropriate to each case, is the wishes of the child as to the matters that are before the court. In that regard, the guardian ad litem, as appropriate to each case, may attempt to ascertain the child's wishes regarding the matters that are before the court.

If the guardian ad litem determines that it is appropriate to ascertain the child's wishes, careful interviewing techniques must be used to elicit those wishes without creating conflicts for the child. Directly asking the child for her or his opinion regarding the matters before the court is not recommended, as doing so may create conflict for the child. For example, directly asking the child for a custody preference is not recommended as it places the child in the position of choosing between two parents for whom the child may care deeply. In addition, if the court implements the child's expressed preference, the child may feel guilty or may feel that the other parent has been betrayed. Instead, questions should be open ended and the guardian ad litem should be prepared to listen carefully.

If the wishes of the child are ascertained, the guardian ad litem should use discretion in deciding whether to communicate those wishes to the court, and/or to the child's parents, and may do so if it is in the child's best interests. Depending upon a number of factors, including the child's age, culture, maturity, emotional stability, and ability to reason, communicate, and understand, the guardian ad litem must be prepared to choose an appropriate course of action. This may include simply listening to the child's wishes, listening and reporting them to the court if appropriate, reporting them to the court even if the guardian ad litem considers them not in the child's best interests, or requesting the court to appoint independent legal counsel for the child for the purpose of representing and advocating for the child's wishes.

If the guardian ad litem determines that the wishes of the child conflict with the guardian ad litem's recommendation as to what is in the child's best interests, thereby creating a conflict of interest between the child and the guardian ad litem, the guardian ad litem shall notify the child, the child's counsel if any, and the court of the existence of the conflict of interest and, if necessary, shall seek appointment of separate counsel to represent the guardian ad litem.

VI. Inappropriate Guardian Ad Litem Responsibilities

The provision of direct services to the child or the child's parents is generally beyond the scope of the guardian ad litem's responsibilities. Therefore, except in special circumstances, the appointing court should not order the guardian ad litem, and the guardian ad litem should not undertake, to provide such direct services. Providing such direct services could create a conflict of interest and/or cause a child or family to become dependent upon the guardian ad litem for services that should be provided by other agencies or organizations. The guardian ad litem may locate and recommend services for the child and family, but should not deliver services.

Specifically, a guardian ad litem should not: (a) provide "counseling" or "therapy" to a child or parent; (b) foster a friendship or "big brother/big sister" relationship with a child or parent by inviting the child or parent into the home of the guardian ad litem, routinely entertaining the child or parent at the movies, or giving money or gifts to the child or parent; (c) give legal advice or hire an attorney for the child or parent; (d) supervise visits between the child and parent or third parties, except as ordered by the court; (e) provide child care services for the child; (f) make placement arrangements for the child or remove a child from the home; or (g) provide a "message service" for parents to communicate with each other.

VII. TRAINING REQUIREMENTS

The purpose of training is to equip guardians ad litem with the skills, techniques, knowledge, and understanding necessary to effectively advocate for the best interests of children. To be listed as an approved guardian ad litem, each person shall satisfy the following pre-service and post-service training requirements:

A. Juvenile Protection Pre-Service Training for Guardians ad Litem

Attend a minimum of (40) forty hours of pre-service training focused on child protection, termination of parental rights and adoption proceedings, and demonstrate a comprehension of the topics discussed during the training; the training must be approved by the Office of the State Court Administrator and must include, at a minimum:

1. Overview of Child Welfare system
2. Juvenile court statutes, rules, process and procedures;
3. Rules of Guardian ad Litem procedure;
4. Role of the GAL in juvenile protection matters;
5. Ethical, professional and unbiased behavior;
6. Report writing and courtroom skills;
7. Child development, attachment theory and impact of child abuse and family violence;
8. Importance of father involvement;
9. Cultural diversity and sensitivity, with special emphasis on the specific population that a GAL may potentially be working with (presentations by local representatives of racial and ethnic communities is strongly recommended);
10. Culture of poverty and impact on children and families;
11. Impact of alcohol and other drugs on children and families..
12. An orientation to the local program and local court and any expectations and requirements unique to that jurisdiction, including any additional training or preparation the program may require..

B. Indian Child Welfare Act Training

Individuals who may be assigned Indian Child Welfare Act (ICWA) cases must complete an additional (6) six hours of specialized training in the Indian Child Welfare Act. Said training must be reviewed and approved by the Office of the State Court Administrator. The training agenda must include a cultural expert from the tribe (s) and cover, at a minimum:

1. Historical overview of American Indian tribes in Minnesota, tribal sovereignty and the treatment of Indian children by the Federal and State government;
2. Current status of American Indian children in Minnesota's child welfare system;
3. History and overview of the Indian Child Welfare Act, including evidentiary standards;
4. History and overview of the Minnesota Indian Family Preservation Act;
5. Tribal eligibility and membership determinations of Indian child;
6. Types of ICWA cases;
7. Overview of prevailing cultural practices and tribal support systems with respect to child rearing and extended family care for specific tribes (this piece to be presented by local tribal cultural expert);
8. Notice requirements of ICWA;
9. Consent requirements under ICWA;
10. Intervention and transfers of jurisdiction;
11. Active efforts requirements to alleviate need to remove an Indian child and to rehabilitate the family after removal;
12. Qualifications for and Use of Qualified Expert Witnesses;
13. Placement preferences under ICWA;
14. "Good Cause" departures under ICWA

C. Domestic Violence Training

In addition to the 40 hour pre-service training, within the first twelve (12) months of their service, every GAL shall also complete no less than (6) six hours of training on domestic and family violence. Said training must be approved by the Office of the State Court Administrator and must include, at a minimum:

1. Statistics on family violence;
2. Risk factors and risk assessment in domestic violence cases;
3. Impact on children of family violence;
4. Co-occurrence of family violence and child maltreatment;
5. Research and/or presentations from advocates and service providers on Battering and Common Couple Violence;
6. Domestic abuse and OFP statutes;
7. Role of the GAL and guidelines for practice;
8. Ensuring safety for children and victims

D. Family Court Training for Guardians ad Litem

If the person intends to serve in family court, they must complete the juvenile protection and family violence training requirements above (a and c) and, within their first twelve (12) months of work, attend an additional 16 hour training course regarding family court matters and demonstrate a comprehension of the topics discussed during the training relating to family court matters; said training must be approved by the Office of the State Court Administrator and must include, at a minimum, the following content areas:

1. Substantive family law overview;

2. Family court procedure;
3. Role and Responsibility of the GAL in family court matters;
4. Role and responsibility of other family court professionals (mediators, custody evaluators, parenting time expeditors, parenting consultants, etc.);
5. Parenting plans;
6. Impact on children of divorce and conflict;
7. Importance of continuing parental contact and involvement;;
8. Research on issue of alienation;
9. Allegations of abuse in the context of custody dispute;
10. Ethical, professional and unbiased conduct in family court;
11. Writing reports to the court and courtroom skills;

E. Certificates of Completion. The state and/or district program will issue certificates of completion for each of the required training sessions outlined above for those individuals who satisfactorily complete the training requirements. These certificates will form the official record for the Guardians ad Litem that they have met the training requirement(s). The District program will keep also keep a record in the Guardian ad Litem file of all required education and training courses completed by the individual.

F. Funding Available. The training requirements outlined above may be delayed by the state and district programs if adequate funding is not available to fully implement the training standards.

VIII. CONTINUING EDUCATION REQUIREMENTS

Once a guardian ad litem is listed as an approved guardian ad litem, the guardian ad litem may maintain that listing only by annually completing (12) twelve hours of continuing education. The continuing education requirement shall begin in the fiscal year following the year in which the guardian ad litem is first listed on a panel of approved guardians ad litem and shall continue each fiscal year thereafter until such time as the guardian ad litem is no longer listed as an approved guardian ad litem.

The District GAL Manager is the approving authority for certifying training for CEU purposes and may consult the State GAL Program Manager if there is any question as to the relevancy of a given training. This requirement goes into effect July 1, 2007.

IX. COMPLAINT PROCEDURE

The Minnesota Judicial Branch is committed to providing high quality Guardian ad Litem service to the children of families who need this service and is willing to talk to any individual who wishes to raise concerns about the performance of an individual Guardian ad Litem, on an informal basis. (Contact the District GAL Manager in your area, a listing of whom can be found at : www.courts.state.mn.us/gal).

A party who wishes to make a formal complaint about the performance of a Guardian ad Litem on their case shall submit their complaint in writing to the District Guardian ad Litem Program Manager. The formal written complaint must specify the alleged malfeasance of duty committed by the Guardian ad Litem. Malfeasance of duty is defined as a failure to

carry out one or more of the statutory duties of a Guardian ad Litem as detailed in Minnesota Statutes 260C.163 and 518.165. (If the complaint is about the work of a District GAL Manager, acting as Guardian ad Litem on a specific case, the complaint shall be directed to the District Administrator responsible for supervising the GAL Manager in question. The District Administrator, or their designee, shall have responsibility for investigating the complaint against a GAL Manager who was acting as Guardian ad Litem on the case in question.)

The District GAL Manager (or other designated investigator) shall make an initial determination as to whether further inquiry into the complaint is warranted, i.e. the complaint makes a prima facie case that malfeasance of duty did indeed occur. Formal complaints that raise issues that have already been addressed by the court, or that should be addressed by the court, will not be investigated unless the District GAL Manager finds good cause to proceed with a formal investigation.

The District GAL Manager (or other designated investigator) shall notify the complainant and the Guardian ad Litem with the results of their initial determination, in writing, within fourteen (14) days of the receipt of the complaint.

If further investigation is warranted, the District GAL Manager (or other designated investigator) will set out in the letter their procedure for investigating the complaint and an estimated timeline for completion of the investigation. Every effort will be made to be timely in pursuing the investigation. Upon completion of the investigation, the District GAL Manager (or other designated investigator) shall notify the complainant and the Guardian ad Litem, in writing, of the findings of their investigation and any further action, if any, to be taken to rectify the concerns raised in the complaint.

If a complainant or Guardian ad Litem wishes to appeal the initial or final determination, and/or the action taken, by the District GAL Manager (or other designated investigator) they must submit their appeal, in writing, to the Judicial District Administrator of the Judicial District within thirty (30) days of the date of the findings received from the District GAL Manager. The District Administrator, or their designee, shall determine whether any further action is warranted on the appeal and shall so notify the complainant and Guardian ad Litem. The District Administrator (or their designee) has the final say as to whether any further action will be taken on the complaint or the appeal.

X. RELATED DOCUMENTS

[CCJ Policy #20, GAL System Management](#)
[Minnesota Rules of Guardian Ad Litem Procedure in Juvenile and Family Court](#)

XI. REVISION HISTORY

- Issued by SCA and effective: April 27, 2007
- Approved by Court Operations Advisory Workgroup: November 8, 2006
- Formerly a component of CCJ Policy #20, GAL System Management, which went into effect on July 18, 2003, and was revised effective January 1, 2005.

Approval:

Sue Dosal, State Court Administrator

Date