



# Policies and Procedures For Guardians ad Litem In Juvenile Cases

*as Revised October 2014 – Guardian ad Litem Advisory Committee*

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## Mission Statement

*To ensure every trial court in the state has sufficient numbers of well trained, impartial, supervised, and supported volunteer Guardians ad Litem to achieve the following goal in juvenile proceedings:*

To advocate on behalf of the best interests of children in cases involving Children in Need of Care and Supervision (CHINS) alleged to have been abused, neglected, or are beyond the control of their parents. The goals of the advocacy are to make certain these children and their families receive appropriate services in a timely manner; that case plans and court decisions are based on the best interests; and every child has a safe, stable, and permanent home within a reasonable period of time.

## The Guardian ad Litem Role

*The Guardian ad Litem is an independent child advocate whose purpose is to ensure protection of the child's best interests and rights throughout the child's involvement in the court process.*

**A Guardian ad Litem serves as:**

A **GATHERER OF FACTS** needed to maintain the best interests. Facts may be collected through personal interviews, review of all pertinent documents, records, and other sources providing information about the child's past and current situation. The purpose of gathering information is to assess what services and plans are appropriate to meet the needs, not to determine the validity of the allegations that brought the child to court.

A **LINK** between the child and his or her attorney and other involved parties making certain the child understands his or her choices and the court process.

An **ADVOCATE** for the best interests of the child by assuring the judge is presented with all of the information he or she needs to further the best interests. The Guardian ad Litem is an independent spokesperson whose goal is to ensure the child's best interests receive priority over the best interests of other parties in the case.

A **FACILITATOR** working to ensure the court, the parties, and service providers work together to meet the child's best interests in a timely fashion.

A **MONITOR** of all activities ordered by the court to make certain court orders are followed and to bring any need for enforcement or change in court orders to the attention of the attorney. The goal of monitoring is to ensure treatment of the child is sensitive to his or her age and need, and progress towards permanency is reasonable. Monitoring continues until the child has a safe, permanent home and the case is closed.

## **Guardian ad Litem Duties and Responsibilities**

*General Description: The Guardian ad Litem acts to advocate for a child to make certain of continued prioritization of his or her best interests and rights throughout the involvement in the court process.*

### **Cases Involving Children In Need of Care and Supervision (CHINS)**

1. Consult with the GAL Supervisor and review documentation filed with the court while respecting the confidentiality of all information. Always ask the GAL Supervisor to check for a history of divorce, parentage, relief from abuse and/or criminal cases for all family and household members.
2. Understand the purpose of collecting and analyzing information is to determine what will be in a child's best interests. A GAL's attempt to investigate as to whether or not the alleged abuse and or neglect has occurred, presents increased risks to the child and is not permitted by law.
3. Identify the need for and obtain any hospital records, police reports, photos, protective services investigations, or other documentation and information required to understand the child's needs and best interests.
4. Establish and maintain a confidential file for each assigned child that contains all GAL notes and information gathered regarding the case. Multiple children from the same family may be included in one file. The GAL has the responsibility of maintaining confidentiality for all files in his or her possession. The file will contain information and reports in the format prescribed by the GAL Program. The file will also serve to demonstrate volunteer work performance with the GAL Supervisor for supervision and evaluation purposes. Volunteer responsibility for the file ends with the file's return to the GAL supervisor in its entirety within two weeks of the placement in a safe permanent home, the courts closure of the case, and/or the GAL resigning.
5. Schedule a meeting with the assigned Department for Children and Families (DCF) caseworker. Carefully review all related DCF records.
6. Meet with the child, regardless of age, to establish a relationship, to identify current needs, and to assure continued attention to the best interests. When there is no evaluation history and the facts support an expert assessment, report identified needs to the attorney.
7. Consult with the attorney for the child to share information that he or she may present to the judge through courtroom procedures. Reliable and factual information allows the judge to make well-informed decisions regarding the child, to determine the appropriate placement for the child, and to ensure implementation of an appropriate plan of services for the child and family.
8. Meet or talk with the child's attorney and assist counsel in making certain the child is aware of her or his options and understands the legal process taking into consideration the developmental readiness of the child to comprehend. Report to the attorney any disagreements with the child over what is in his or her best interests. Make sure the attorney is aware of any accumulated information that counsel may need for adequate representation of the child. Inform the attorney of any concerns arising from the information gathered.

9. If the GAL is not satisfied with the representation of the child by the attorney, including the introduction of evidence, the guardian shall advise the court on the record orally or in writing.
10. Always meet with the parents, custodian, or legal guardian. If the parents have counsel, inform the attorney of the meeting. If there is a parent, legal guardian, or custodian not actively involved in the court proceedings, attempt to locate that person and arrange an interview.
11. Consider meeting and interviewing teachers, childcare providers, baby sitters, foster parents, therapists, or any other persons who have had substantial contact with the child.
12. Work with the attorney for the child and other parties in exploring agreement on a course of action that is in the best interests.
13. Based on the facts collected, at the disposition hearing be prepared to present an assessment of what course of action will be in the best interests. Discuss your assessment with the DCF social worker prior to his or her filing the disposition report.
14. Attend all court hearings, case plan reviews, administrative reviews, and other meetings relating to the child such as Treatment Team meetings, school meetings, or DCF meetings regarding placement and permanency planning. Review plans for permanency to ensure they are in the best interests of the child and are consistent with federal Adoption and Safe Families Act guidelines.
15. Unless an exception form is approved by your program supervisor, visit with the child a minimum of once a month until the child has a safe permanent home. Exception forms are available in your forms folder or you may obtain one from your program supervisor.
16. Inform the child about the outcome of all court hearings and keep the child updated about the progress of the case as is developmentally appropriate.
17. Contact the attorney for the child with any information indicating departure from court orders that could require early court review.
18. Review the permanency plan to ensure that it is in the best interests of the child.
19. Inform the GAL Supervisor of any conflict that would prevent appearance at a hearing with enough advance notice for assignment of another Guardian ad Litem.
20. Make at least monthly contact with court GAL Supervisor for support, guidance, and information. Attend all supervision sessions as requested by your supervisor.
21. Keep accurate records of time, activity, and other case information required by the Program and submit records as requested.
22. At the conclusion of all termination of parental rights proceedings resulting in a termination of parental rights, review plans for permanent placement including information about adoption recruitment efforts and potential adoptive parents. Continue to consult with DCF to ensure that appropriate placement occurs within a reasonable time. Request the attorney advocate for permanent placement. When parental rights continue, resume participation in the process as the Guardian ad Litem until the child is placed in a safe permanent home.

## **On-going Guardian ad Litem Responsibilities** **for all Case Assignments**

1. All communications with the court shall be according to court rules. No ex-parte communication with the judge is permitted. Check with the GAL Supervisor if you have questions about the application of the rules.
2. The GAL has the responsibility to decline accepting new cases when additional responsibilities will not allow sufficient time for quality advocacy in current assignments.
3. Maintain a confidential case file on each case assigned. The file will contain:
  - a. Any photocopies, documents from court case files, and documents from other agencies or service providers.
  - b. Case notes formatted as intervention plans, interview forms, report outlines, activity logs, and any additional forms required by the GAL Program.
4. Submit required GAL case activity reports and other reports or forms on each case as directed by the GAL Supervisor.
5. Make the case file available for supervision and or evaluation with the GAL Supervisor as requested. Return the file, including handwritten notes, to the family court within two weeks of the date the appointment ended due to the case closure or GAL resignation.
6. Attend any GAL meetings or training sessions required by the court.
7. Meet monthly with the court GAL supervisor for supervisory or evaluation sessions.
8. At least once per month, have contact with the assigned child or file a request for an exception using the exception form. Continue meeting with the child at least once per month until the child is in a safe, permanent home and the case is closed.
9. Attend all administrative reviews, Treatment Team meetings, school meetings, or other meetings regarding children in the custody of the State.
10. Attend all scheduled court hearings. Notify the court immediately of any needs for a continuance due to personal, unavoidable, schedule conflicts. Inform your supervisor as soon as you are aware of any plans that will make you inaccessible for extended periods.
11. Attend local GAL meetings for continuing education and mutual support.
12. Complete an additional 12 hours of training specific to GAL role and function for each year of active service starting with the second year of service.
13. Report any incident of child abuse or neglect to the GAL Supervisor and appropriate authorities.

## Guardian ad Litem Code of Ethics

**Propriety:** The Guardian ad Litem shall maintain standards of personal behavior that do not jeopardize the safety of the child, the integrity of the program, or his or her objectivity. He or she shall not engage in activities that are possible to result in a conflict of interest, or expose the program or the Guardian ad Litem to criminal or civil liability.

**Conflict of Interest:** A conflict of interests exists when the Guardian ad Litem has personal interests, knowledge, and or feelings about one or more parties in an assigned case that could interfere with his or her objectivity. The Guardian ad Litem shall not accept a case in which the potential for a conflict of interest exists, and shall disclose any potential conflicts to the parties and the court.

**Competence:** The Guardian ad Litem shall take responsibility for identifying what he or she needs to know and how to apply the knowledge required for the performance of his or her role. The Guardian ad Litem shall continue pre- and in-service training to attain and maintain proficiency in the performance of all responsibilities.

**Integrity:** The Guardian ad Litem shall possess and steadfastly adhere to high moral principles and professional standards.

**Program integrity:** The Guardian ad Litem shall not represent his or her personal views or values as those of the Program, nor should the Guardian ad Litem impose his or her personal views or values on others in any capacity as a Guardian ad Litem.

**Confidentiality:** The Guardian ad Litem shall not disclose any information learned in a case to family, friends, or others not directly involved in the case. The Guardian ad Litem shall maintain confidentiality and respect the privacy of others in all matters relating to case assignments.

**Respect:** The Guardian ad Litem shall treat all parties to an assigned case with fairness, respect, and courtesy.

**Use of authority:** The Guardian ad Litem shall make appropriate use of authority, limiting his or her role to fulfilling their responsibilities in assigned cases.

## **Guardian ad Litem Appointment**

*New volunteer GALs will attend a swearing in ceremony with the presiding judge and take the GAL oath/affirmation. The GAL will sign a copy of the oath for his or her personnel file.*

### **Guardian ad Litem Oath or Affirmation**

To the best of my judgment and ability I solemnly swear (affirm) that I will faithfully execute my judicial appointment as a Guardian ad Litem for all children or adults assigned in a Vermont court.

I will consistently seek to advance the best interests of assigned children or adults;

As an officer of the court, I will uphold the dignity of the court; and

I will maintain and respect the confidentiality of all parties to court proceedings.

## **Expenses**

For reimbursement of expenses, record all telephone contacts and mileage costs associated with each assigned case. Submit a State of Vermont Personal Expense Claim (form AAF6A) with mileage and telephone costs for each specific case to the Family Court. Copies of telephone bills are required for telephone costs reimbursement.

## **Prohibited Activities**

GALs must always consider their defined role as an advocate if asked to perform services for children and families or when engaging in certain activities. The following activities are outside the role of the Guardian ad Litem and are therefore prohibited:

1. Guardians ad Litem are not permitted to take assigned children to the Guardians' ad Litem home.
2. Guardians ad Litem are not permitted to give legal advice or therapeutic counseling to assigned children and/or their families, or any other party or person connected with the assigned case.
3. Guardians ad Litem are not permitted to make any placement arrangements for the assigned child.
4. Guardians ad Litem are not permitted to give money or expensive gifts to the assigned child or family.
5. Guardians ad Litem are not permitted to transport assigned children, family members, or parties.
6. Technology: Guardians ad Litem are cautioned in their use of new technologies (such as email, Facebook, texting, You Tube, Skype, etc.). The Guardian ad Litem Code of Ethics (see above), including but not limited to confidentiality, conflict of interest and integrity applies to a volunteer's use of technology.
7. Communications with Public Officials: Guardians ad Litem should refrain from communicating with public officials on matters concerning their role as a GAL in a specific case. This policy is not intended to interfere with a GAL speaking as a private citizen on a matter independent of their GAL role.

## **Resignation as a Guardian ad Litem**

1. Verbally indicate plans to resign to your supervisor as soon as possible. This is necessary to allow for planning that will ensure continued advocacy for assigned children.
2. Provide written notice of resignation to the GAL Program office and to your local supervisor at least two weeks in advance of any scheduled meetings or hearings regarding an assigned child.
3. Meet with each assigned child or adult. When in doubt, discuss approaches with the GAL supervisor. Be prepared to explain your reasons for leaving and your possible replacement considering the developmental readiness to know.
4. Turn in all case files to your supervisor within two weeks of the date of your resignation.

## **Dismissal from the Guardian ad Litem Program**

A Guardian ad Litem may be dismissed from the GAL Program by the Court Administrator, or designee, the GAL Program Coordinator after consultation with the appropriate Superior Court Clerk, or by the appropriate Superior Court Clerk, after consultation with the GAL Program Coordinator. A Guardian ad Litem may be dismissed from the GAL Program for any of the following reasons:

1. Taking action that endangers the child or is outside the role of the GAL Program.
2. Initiating ex parte communication with the Court
3. Violating a program policy, court rule, or law
4. Failing to demonstrate an ability to effectively carry out assigned duties.
5. Falsifying his or her application or misrepresenting facts during the screening process.
6. Existence of child abuse and/or neglect allegations against the volunteer.
7. Existence of a conflict of interest which cannot be resolved.
8. An arrest, charge, or conviction for any criminal offense prior to or during period of GAL Program service.
9. Any other grounds deemed to be reasonable grounds for dismissal.

## **Liability from Lawsuits**

If a party in an assigned case should file a lawsuit against you, notify the GAL Coordinator immediately. In a suit based on your execution of responsibilities as a GAL in an assigned case, the State has an obligation to defend a Guardian ad Litem as an employee. (Title 3, Chapter 29 1101-1104)

When you have been served a copy of a suit, you will need to inform your supervisor at the court and immediately send a copy to the GAL Coordinator. The Coordinator will forward a copy to the Vermont Attorney General's Office.

Do not discuss the matter or take any other action until you have heard from the Attorney General's Office.

## **Title 3 VSA. Chapter 29 – 1101-1102**

### **1101. Obligation of state to defend employees**

(a) In any civil action against a state employee for alleged damage, injury, loss or deprivation of rights arising from an act or omission to act in the performance of the employee's official duties it shall be the obligation of the state to defend the action on behalf of the employee and to provide legal representation for that purpose at state expense, except to the extent that such representation is provided by an insurance carrier, or except in an action resulting from the service of civil process.

(b) For purposes of this chapter, "state employee" includes any elective or appointive officer or employee within the legislative, executive or judicial branches of state government or any former such employee or officer. The term includes, without limitation

(2) Guardians ad Litem;

### **1102. Representation of employee: determination by attorney general.**

(a) A state employee against whom a civil action is brought for an alleged act or omission, which the employee believes to have arisen within the scope of his official duties, shall notify the attorney general of the action. Unless full legal representation of the employee's interest is provided under a contract of insurance the attorney general shall conduct an investigation and shall determine whether the alleged act or omission occurred within the scope of the employee's official duties.

(b) If the attorney general determines that the alleged act or omission occurred within the scope of the employee's official duties, he shall defend the action on behalf of the employee, except as provided in subsection (e) of this section.

(c) If the attorney general finds that the alleged act or omission did not occur within the scope of the employee's official duties, he shall so notify the employee in writing. The employee may appeal the determination of the attorney general to the state labor relations board in accordance with the rules of the board, and the decision of the state labor relations board shall be final.

(d) During the period of investigation set forth in subsection (a) of this section or an appeal as set forth in subsection (c) of this section, the attorney general shall take all reasonable steps to protect the interests of the employee.

(e) In any case in which the state is obligated to provide legal representation for a state employee under this chapter, if the attorney general finds that he cannot adequately represent the interest of the employee, he shall authorize the employee to retain legal counsel at state expense. The terms under which private counsel is retained for a state employee at state expense under this section must be approved by the attorney general.