State Guardian ad Litem Board

Policy No. 4

Guardian ad Litem Program Requirements and Guidelines (Non-statutory)

(formerly Guardian Ad Litem System Program Standards)

Supersedes: CCJ Administrative Policy #20

Approved: September 23, 2011

Effective Date: November 1, 2011

Revised: September 23, 2011

In 2010 the Minnesota Legislature created the State Guardian ad Litem Board (Minnesota Statutes § 480.35), which moved the administration of the Guardian ad Litem Program from the state court system and to the Board. Prior to 2010, pursuant to the General Rules of Practice for District Courts, Title X, Rule 902, the Office of the State Court Administrator established Guardian ad Litem Program Standards and the standards were approved by the Judicial Council. The State Guardian ad Litem Board revised the standards and renamed them Requirements and Guidelines (Non-statutory) on September 23, 2011.

REQUIREMENTS

I. MINIMUM QUALIFICATIONS FOR GUARDIAN AD LITEM SERVICE

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;

B. Have access to reliable transportation;

C. Have sufficient listening, speaking, and writing skills to successfully conduct interviews, prepare written reports, and make oral presentations;

D. Have the ability to become proficient using relevant computer software programs and databases;

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. Have the ability to complete the training and orientation requirements set forth in these Requirements and Guidelines; and

H. Must be able to pass a Bureau of Criminal Apprehension (BCA) and federal background check. (Bases for disqualification are in Minn. Stat. § 245C.14-.15)

II. SELECTION OF GUARDIANS AD LITEM FOR EMPLOYEE OR VOLUNTEER POSITIONS

Selection of guardians ad litem for employee or volunteer positions is conducted in compliance with the Minnesota Judicial Branch Human Resources Policies.

A. Recruitment

For external postings, 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 an active recruitment shall be made to solicit applications from individuals whose gender, 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 Minnesota Judicial Branch employment or volunteer application. The application shall address the minimum qualifications set forth in these Requirements and Guidelines. Review and verification of the facts set forth in the application are conducted in accordance with the Minnesota Judicial Branch Human Resources Policies.

C. Screening Process

Before an applicant is offered a position by the GAL program manager for an employee or volunteer position: (a) the written application shall be reviewed, (b) the applicant shall be interviewed, and (c) the applicant's references shall be contacted. All permanent employment is contingent upon passing a criminal history, maltreatment record and personal background check.

III. GENERAL RESPONSIBILITIES OF GUARDIANS AD LITEM

Consistent with the responsibilities set forth in Minnesota Statutes § 260C.163, subdivision 5(b), and Minnesota Statutes § 518.165, subdivision 2a, other applicable statutes and rules of court, and the appointment order entered pursuant to the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court and the Rules of Juvenile Protection Procedure, 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 (5):

1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which 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;
2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;
3) 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;
4) monitor the child's best interests throughout the judicial proceeding; and
5) present written reports on the child's best interests that include conclusions and recommendations and the facts and observations upon which they are based.

The guardian ad litem may locate and recommend services for the child and family, but shall not

deliver services.

IV. PRECLUDED ROLES

The provision of direct services to the child or the child's parents is beyond the scope of the guardian ad litem's responsibilities. 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, 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;
E. Provide child care services for the child;
F. Make placement arrangements for the child or remove a child from the home;
G. Provide a "message service" for parents to communicate with each other;
H. Conduct custody evaluations pursuant the Rules of Guardian Ad Litem Procedure in Juvenile and Family Court Rule 903.04; or
I. Transport children.

V. TRAINING REQUIREMENTS

Overviews of all training programs are available upon request and on the State Guardian ad Litem Program Web site at [will insert new Web site here when the site goes live]

A. Juvenile Protection Training
Attend a minimum of (40) forty hours of guardian ad litem training focused on child protection. The training must be approved by the State Guardian ad Litem Board.

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. The training must be reviewed and approved by the State Guardian ad Litem Board.

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. The training must be approved by the State Guardian ad Litem Board.

D. Family Court Training
GAL employees who serve in family court, 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. The training must be approved by the State Guardian ad Litem Board.

E. Certificates of Completion
Certificates of completion for each of the required training sessions outlined above will be issued for those individuals who satisfactorily complete the training requirements. Board staff will verify attendance to program managers. These certificates serve as the official record that the guardian ad litem has met the training requirement(s). The district program will 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 requirements.

VI. CONTINUING EDUCATION REQUIREMENTS

Employee guardians ad litem are required to complete fifteen (15) hours of continuing education each year. Volunteer guardians ad litem are required to complete twelve (12) hours of continuing education each year. This requirement begins in the fiscal year following the year in which they began their GAL service.

The district GAL manager is the approving authority for certifying training for CEU purposes and may consult the program administrator if there is any question as to the relevancy of training programs or opportunities.

GUIDELINES

VII. FACTORS TO BE CONSIDERED IN SELECTION OF GAL FOR CASE

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 capacity to appreciate 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. Completion of the state-sponsored six (6) hour ICWA training or its equivalent should be considered when selecting a GAL for a 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. To be appointed, a guardian ad litem must meet the minimum qualifications set forth in these Requirements and Guidelines and must have no conflict of interest regarding the case.

VIII. SUPERVISION, MANAGEMENT AND EVALUATION OF GUARDIANS AD LITEM

A. **Support, Advice and Supervision**
The program coordinator and/or district GAL program manager shall be responsible to provide support, advice, and supervision to guardians ad litem serving in the district GAL program.

B. **Performance Evaluation**
The district GAL program manager, in conjunction with the program coordinator(s), shall provide for the periodic evaluation of all guardians ad litem serving in the judicial district. The evaluation shall be conducted pursuant to the Minnesota Judicial Branch Human Resources Policies for performance evaluation, and will include completion of continuing education requirements as set forth in these Requirements and Guidelines. Other factors that may be considered include:

- inquiries to judges presiding over cases in which a guardian ad litem was appointed;
- a review of complaints filed against a 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 administrator, program manager or coordinator.

C. Complaints

A party who wishes to report concerns about the performance of a guardian ad litem on their case must contact, in writing, the program manager in their district within 30 calendar days from the filing of the order discharging the GAL. The formal written complaint must specify the alleged misfeasance or nonfeasance of duty committed by the guardian ad litem. Misfeasance of duty is defined as improper performance and nonfeasance of duty is defined as a failure to carry out one or more of the statutory responsibilities of a guardian ad litem as detailed in Minnesota Statutes §§ 260C.163 and 518.165. The statutory responsibilities are enumerated above in section III. (If the complaint is about the work of a district GAL program manager acting as guardian ad litem on a specific case, the complaint shall be directed to the program administrator. The program administrator, or designee, shall have responsibility for investigating the complaint against a GAL program manager who was acting as guardian ad litem on the case in question.)

REVISION HISTORY

- Revised by State Guardian ad Litem Board on September 23, 2011
- 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:

Leslie Metzen
State Guardian ad Litem Board Chair

11/1/2011
Date