

THE SUPREME COURT OF OHIO

***REPORT OF THE GUARDIAN AD LITEM
STANDARDS TASK FORCE***

SUBMITTED BY:

THE HONORABLE DAVID A. ELLWOOD, CHAIR

MARCH 28, 2002

EXECUTIVE SUMMARY

INTRODUCTION

Ohio courts appoint guardians ad litem to represent children in proceedings filed in the Domestic, Juvenile, Probate and General Divisions of the Court of Common Pleas. No minimum practice standards exist in Ohio to guide guardians ad litem in performing their primary duty to represent the best interest of the child.

The Ohio Supreme Court recognized the important role the guardian ad litem serves in the judicial system and established the Guardian ad Litem Task Force. Chief Justice Thomas J. Moyer appointed Judge David A. Ellwood, Guernsey County Court of Common Pleas, to serve as Chair of the Task Force. The mission of the Task Force was to develop comprehensive practice standards for guardians ad litem who represent children.

DEFINITION

Guardians ad litem serve diverse roles in proceedings that involve abuse and neglect, termination of parental rights, and custody issues in the juvenile, domestic relations, and probate divisions, and real property rights and economic interests in probate, juvenile, and general divisions. An applicable uniform definition is as follows:

A guardian ad litem is appointed by the court to assist the court in its determination of a child's best interest. To further this goal, the guardian ad litem meets with and establishes a relationship with the child, contacts those persons significantly affecting or having relevant knowledge of the child's life, gathers information, examines records and otherwise investigates the child's situation in order to provide the court with pertinent information and an informed recommendation as to the child's best interest.

RECOMMENDATIONS

The Task Force recommends that guardian ad litem duties and responsibilities be defined, that the courts establish an application and review process for individuals seeking appointment as a guardian ad litem to ensure that appointees are competent to perform guardian ad litem duties, that training for guardians ad litem be provided, and that adequate sources of funding be established for payment of guardians ad litem. Specific recommendations of the Task Force are as follows:

- *The guardian ad litem shall act in the best interest of the child.*
- *The guardian ad litem shall interview the child, make home visits, contact professionals with whom the child has contact, and explore the child's wishes.*
- *The guardian ad litem shall review and file pleadings, actively participate in court proceedings, recommend any additional evaluations of the child, as necessary, and monitor compliance with court orders.*

- *The guardian ad litem shall present reports and recommendations to the court.*
- *The requirements for the composition of the report, the time for filing the report, and the evidentiary value of the report shall be established in accordance with applicable law and the nature of the proceeding.*
- *The guardian ad litem shall be objective and shall have the duty to report any actual or potential conflict of interest to the court. The guardian ad litem shall request that the court appoint an attorney to represent the child if the child's wishes differ from the guardian ad litem's recommendations.*
- *Guardians ad litem shall continue to serve on a case until discharged by the court; whenever possible, the court should reappoint the same individual as guardian ad litem for the child in additional proceedings.*
- *The court shall appoint qualified and competent individuals to serve as guardians ad litem. Individuals seeking appointment as a guardian ad litem must file an application with the court and be subject to civil and criminal background checks. Courts and CASA (Court Appointed Special Advocate) programs shall maintain records of all individuals applying for consideration of appointment. The court shall review guardian ad litem performance annually.*
- *The court shall designate a court employee to receive any complaints regarding guardians ad litem and shall maintain a written record of the complaint disposition.*
- *Minimum education requirements are established. A comprehensive, statewide training program with mandatory areas of training related to guardian ad litem duties should be developed. At least six (6) hours of training is required prior to appointment and three (3) hours of additional training is required per year thereafter.*
- *Guardians ad litem should be compensated at a reasonable hourly rate for services performed, based upon education and experience. A cap on guardian ad litem fees in individual cases is recommended, with additional fees paid upon court approval.*
- *Statutory sources of funding should be amended by the legislature to provide for collection of fees and payment of guardians ad litem. Volunteer programs such as CASA programs should be supported and developed. Some guardian ad litem services may be taxed as costs to the parties, and pro bono appointments may be utilized on a limited basis.*

CONCLUSION

The recommendations of the Task Force outline comprehensive practice standards for guardians ad litem, yet are flexible to assure that the children's best interests are served in the varied proceedings in which guardians ad litem may be appointed. The Task Force recommends that the standards be implemented with a one-year grandfather period.

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INTRODUCTION TO THE GUARDIAN AD LITEM STANDARDS TASK FORCE REPORT

Ohio courts are faced with the important question of how to better serve children whose lives are impacted by judicial decisions. Ohio Supreme Court statistics indicate that 16,601 complaints were filed in Ohio courts in 2000 alleging a child to be dependent, neglected, and/or abused. In a majority of these cases a guardian ad litem was appointed to represent the minor child. It is significant that the child rarely appears in court in a majority of these proceedings and depends upon the adults present to protect his or her interests.

The decisions made in the cases may concern where and with whom a child resides and what services may be offered to the child and family. These determinations have a lasting impact on the child. It is essential that the person appointed by the court make informed and appropriate recommendations. In Ohio, the services of guardians ad litem are relied upon to ensure that children's interests and well-being are considered by the court.

Generally, a guardian ad litem is appointed by the court to assist the court in its determination of a child's best interest. To further this goal, the guardian ad litem conducts a thorough investigation to provide the court with pertinent information and informed recommendations as to the child's best interest. Although some courts have adopted local rules in this area, there is no uniformity across Ohio with respect to standards for the training and practice of guardians ad litem.

In his State of the Judiciary message to the General Assembly in January 2001, Chief Justice Thomas J. Moyer spoke of this problem and announced his intention to appoint a special committee to address the issues of guardian ad litem standards. On June 28, 2001, he appointed the Guardian Ad Litem Standards Task Force with the directive to develop recommendations for statewide standards of practice for the appointment of guardians ad litem.¹

¹ The Guardian ad Litem Standards Task Force Member List is included as Appendix A. Complete reports of the Subcommittees are available for public review through the Office of Judicial and Court Services.

I. GUARDIAN AD LITEM SERVICE AND DUTIES

INTRODUCTORY COMMENTS

As previously stated, a guardian ad litem assists the court in making a best interests determination which requires the guardian ad litem to investigate the circumstances of the child and to make an informed recommendation. To accomplish this end, it is imperative that the guardian ad litem have a clear sense of what is expected in terms of service and duties, and that he or she is well-trained in order to effectively carry out these duties.

Recommendation One (1)

When the court appoints a guardian ad litem in any proceeding involving a minor child, the guardian ad litem shall act in the best interest of the child and shall perform the following minimum duties unless impracticable or inadvisable to do so:

Out-of- Court Duties

- (a) Interview the child and observe the child with each parent, foster parent, guardian or physical custodian. At least one interview shall be away from the presence of said parent, guardian, or physical custodian;*
- (b) Review pleadings and other relevant court documents;*
- (c) Review criminal, civil, educational and administrative records pertaining to the child;*
- (d) Conduct home visits;*
- (e) Suggest the possible necessity for psychological evaluations, mental health and/or substance abuse assessments, or other intervention;*
- (f) Contact school personnel, medical and mental health providers, child protective services workers and relevant court personnel;*
- (g) Explore the wishes of the child; and*
- (h) Perform any other investigation necessary to make an informed recommendation regarding the best interests of the child.*

In-Court Duties

- (a) Actively participate in all court proceedings;*
- (b) Monitor court orders to ensure compliance; and*
- (c) File motions, and other pleadings as appropriate under the applicable rules of procedure.*

The recommended standard duties are general and may be applied to all courts and case types. Further, the recommendations are flexibly designed in order to accommodate each county's specific needs and resources.

The eleven priorities represent core duties which should be performed by the guardian ad litem. If any of the minimum duties is not performed, the guardian ad litem should be prepared to discuss with the court and/or parties, why this portion of the investigation was not necessary, practicable, or safe.

The list primarily reflects the duties of a guardian ad litem in juvenile or domestic relations proceedings. A guardian ad litem appointed by a probate or general division court may or may not have similar responsibilities. To the extent those duties are similar to those of a juvenile or domestic relations court guardian ad litem, a probate or general division court guardian ad litem should perform duties consistent with those detailed herein.

The appointment of a guardian ad litem requires the judge to assess the anticipated responsibilities and issue an order of appointment consistent with the duties contemplated. Further, if the guardian ad litem will be required to assess personal rights, the probate or general division judge should utilize individuals who have met the training requirements for guardian ad litem appointments in juvenile and domestic relations proceedings.

Recommendation Two (2)

It is critical that only qualified persons perform the duties of a guardian ad litem. At a minimum, the person should be well-trained, knowledgeable and capable of communicating effectively with adults and children of varying backgrounds and circumstances. Further, courts should:

- (a) Establish a list of criteria and educational requirements for consideration in appointing or removing a guardian ad litem;***
- (b) Require a resume or information sheet outlining the applicant's training, experience and expertise related to children;***
- (c) Conduct or cause to be conducted, a criminal and civil background check and investigation of other relevant information; and***
- (d) Conduct an annual review of appointments to determine the applicant's demonstrated skill and knowledge. (This annual update should include certification from the applicant that he/she has not been the subject of any criminal investigation or convicted of any offense since that application or last review.)***

Recommendation Three (3)

A lay guardian ad litem must avoid engaging in conduct that constitutes the unauthorized practice of law. Therefore, the lay guardian ad litem must be vigilant in performing his or her duties, so as to request the court to appoint legal counsel, or otherwise employ the services of an attorney, to undertake appropriate legal actions. Additionally, a lay guardian ad litem has a duty to advise a child of his or her right to

an attorney if the guardian ad litem's recommendations differ from the wishes of said child.

Calling upon a layperson to effectively represent the best interest of a child carries a potential that his or her conduct may result in the unauthorized practice of law. For instance, there may be a need for filing motions requesting evaluations, filing discovery requests or motions to compel discovery, objecting to testimony or other evidence, and presenting evidence. In order to avoid engaging in the unauthorized practice of law, a lay guardian ad litem should request independent legal representation. An appointing court should promptly rule on any request for the appointment of counsel.

Recommendation (4)

When a court appoints an attorney to serve as both the guardian ad litem and attorney for a minor child, the attorney shall advocate for the child's best interest and the child's wishes in a vigorous manner conforming to the Code of Professional Responsibility. When an attorney serving in this dual role determines that a conflict exists between the child's best interest and the child's wishes, he or she shall, at the earliest practical time, request the court to promptly resolve the conflict by entering appropriate orders.

An attorney, in the role of the guardian ad litem, not only assumes the duty to advocate for a child's best interest, but also has a duty of candor to the court. In contrast, the role of the attorney demands that the person zealously represent his or her client. An attorney serving in this dual capacity must be vigilant to identify any conflict of interest and make appropriate requests of the court.

Recommendation Five (5)

A guardian ad litem must maintain objectivity. Any relationship or activity, including but not limited to those of employment, business, professional or personal contacts with respect to parties or others involved in the case, may conflict with the guardian ad litem's responsibilities and must be disclosed. Since a conflict of interest may arise at any point in time, the guardian ad litem has an ongoing duty to disclose the existence of any actual or potential conflicts.

Recommendation Six (6)

The guardian ad litem should remain on the case until his or her duty is effectively discharged pursuant to statute or by leave of court. Whenever feasible, the same guardian ad litem should be re-appointed in any subsequent filings related to the child's best interest.

Recommendation Seven (7)

Any guardian ad litem who makes a recommendation or conducts an investigation concerning the interests of the child in a proceeding in which the guardian ad litem is

appointed shall be immune from civil or criminal liability as to that investigation or recommendation unless the guardian ad litem has acted in bad faith or with malicious purpose.

Even though immunity has been afforded by appellate case law in some districts, such immunity should be expressly enacted by statute.

CONCLUDING COMMENTS

The preceding recommendations delineate duties expected of a guardian ad litem and also provide the framework within which those duties may be performed. Further, specific responsibilities are placed upon the appointing authority or the supervising program to ensure appropriate persons are available for appointment. With standards of this nature put into place, the child receiving the service of a guardian ad litem will inevitably be better served.

II. GUARDIAN AD LITEM TRAINING

INTRODUCTORY COMMENTS

Training is essential to ensure that guardians ad litem can perform required duties. Currently, Ohio has comprehensive training programs in several counties, as well as training made available through CASA Programs. While minimum standards are recommended, more training should be encouraged and supported. A one-year time frame is recommended which permits guardians ad litem to meet training requirements.

Recommendation Eight (8)

- (a) *Successful completion of a minimum of six (6) hours of pre-service training shall be required in order to qualify for consideration for a guardian ad litem appointment. Thereafter, a guardian ad litem shall complete a minimum of three (3) hours of specific training per year to be allowed to qualify for continued appointment;*
- (b) *A comprehensive statewide training program shall be made available. Support should be sought from the Commission on Continuing Legal Education, the Ohio Department of Job and Family Services (ODJFS), the Attorney General's Office, Ohio CASA/GAL Association, among others, and augmented by universities and local and/or national training programs;*
- (c) *The training should be free and easily accessible on a county- by- county basis. Ohio Department of Jobs and Family Services is encouraged to explore the feasibility of permitting attorneys who have completed at least one pro bono appointment in the preceding year to attend Ohio Child Welfare Training Program courses free-of-charge as space is available. Continuing Legal*

Education accreditation should be sought for these courses, and the number of training hours available to any attorney should be commensurate with the pro bono service;

- (d) The Ohio Commission on Continuing Legal Education and other professional educational commissions, e.g. Social Worker Licensing Board, should support guardian ad litem training by offering appropriate education units;*
- (e) The Ohio Judicial College should provide training for judges and magistrates to enhance their understanding of guardian ad litem-related issues, including the role of the guardian ad litem and related work product; and*
- (f) Each court shall identify and make public the name of the individual employee responsible for providing training information for guardians ad litem.*

Recommendation Nine (9)

The required list of topics for guardian ad litem training should include the following:

- (a) Assessing risk and safety;*
- (b) Stages of child development;*
- (b) Family dynamics;*
- (c) Child abuse and neglect;*
- (d) Basic psychopathology for adults and children;*
- (e) Substance abuse and its effects;*
- (f) Communication skills/ability to speak with children and adults, including critical questions, open-ended questions, interview skills;*
- (g) Perspective of a child;*
- (h) Records checks, accessing, assessing and appropriate protocol;*
- (i) Building trust;*
- (j) Guardian ad litem's role in court;*
- (k) Multicultural awareness;*
- (l) Sensitivity;*
- (m) Local resources and service practice;*
- (n) Dispute resolution;*
- (o) Confidentiality; and*
- (p) Report content.*

Recommendation Ten (10)

A guardian ad litem appointed by a probate court whose appointment requires duties similar to those of a juvenile or domestic relations court guardian ad litem shall be trained in the same manner as a juvenile or domestic relations court guardian ad litem.

CONCLUDING COMMENTS

The Ohio Supreme Court should establish training requirements to be met by each

guardian ad litem. This may be accomplished through Rules of Superintendence. Each guardian ad litem in Ohio must then meet the minimum training standards and requirements established by the Court.

III. GUARDIAN AD LITEM REPORTS

A. REPORTS IN PROCEEDINGS CONCERNING THE TERMINATION OF PARENTAL RIGHTS AND CONCERNING ABUSE, NEGLECT, AND DEPENDENCY

The following recommendations seek to address reports by the guardian ad litem in two types of juvenile proceedings: (1) hearings to terminate parental rights; and (2) abuse, neglect and dependency hearings. Although the roles and responsibilities of guardians ad litem differ in each of these types of proceedings, certain general principles are common to both. First, because of evidentiary and constitutional considerations, the guardian ad litem may not, prior to adjudication, submit a report containing substantive information relating to the allegations before the court. Second, in cases involving the termination of parental rights, the only report that the guardian ad litem may submit to the court is an activity summary limited to explaining what steps the guardian ad litem took to satisfy the applicable statutory duties.²

Recommendation Eleven (11)

Pre-adjudicatory reports of the guardian ad litem in hearings to terminate parental rights shall conform with the following requirements:

- (a) The written report of the guardian ad litem, which must be submitted to the court in permanent commitment hearings prior to or at the time of the court proceeding, pursuant to R.C. 2151.414(C), shall describe the investigation conducted by the guardian ad litem;*
- (b) The report shall list hearings attended, interviews performed, reports and documents reviewed, and consultations with experts;*
- (c) The report shall be used by the court to ensure that the guardian ad litem is performing those responsibilities required by R.C. 2151.281; and*
- (d) The report shall not contain information concerning the permanent custody pleading and shall not be considered by the court as substantive proof of matters relevant to the motion.*

Recommendation Twelve (12)

Pre-adjudicatory reports of the guardian ad litem in juvenile abuse, neglect, and dependency cases shall conform with the following requirements:

- (a) Any written report of the guardian ad litem that is submitted to the court prior*

² Guardians ad litem are also appointed by the juvenile court in unruly, delinquency, and juvenile traffic proceedings. The guardian ad litem, many times, is also counsel of record. Traditionally the guardian ad litem's role is more limited in these types of proceedings. In such cases the necessity of a written report will be determined by the Court on a case-by-case basis or otherwise addressed by local rule.

- to adjudication shall be provided to the parties to the case no less than three days before trial;*
- (b) The guardian ad litem shall provide a copy to the court at the hearing;*
 - (c) The report should list all hearings attended, interviews performed, reports and documents reviewed, and consultations with experts;*
 - (d) The report shall be used by the court to ensure that the guardian ad litem has performed those responsibilities required by R.C. 2151.281; and*
 - (e) The report shall not contain information relating to the allegations before the juvenile court and shall not be considered by the court as substantive proof as to any issue.*

Recommendation Thirteen (13)

Dispositional reports of the guardian ad litem in juvenile abuse, neglect, and dependency cases shall conform with the following requirements:

- (a) A guardian ad litem report shall be submitted at disposition on abuse, neglect, and dependency cases;*
- (b) The report, which may be submitted orally or in writing, may contain any reliable information that is relevant to the matters before the court;*
- (c) If a written guardian ad litem report is prepared for submission, it shall be provided to the parties prior to the dispositional hearing and shall be filed with the court; and*
- (d) The court has the discretion to order confidential records attached to or discussed in the report to be sealed. All portions of the report shall be made part of the record for purposes of appeal.*

B. REPORTS IN PROCEEDINGS CONCERNING THE ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES

Recommendation Fourteen (14)

Pre-trial reports of the guardian ad litem in cases involving the allocation of parental rights and responsibilities shall conform to the following requirements:

- (a) Any written report of the guardian ad litem submitted to the court and parties prior to trial shall be used solely for pre-trial negotiation and dispute resolution;*
- (b) If the case is not settled prior to trial, the report shall not carry greater weight than any other pleading;*
- (c) The report is not admissible at trial and shall not be considered by the court as substantive proof as to any issue; and*
- (d) A report that is submitted as a negotiation document shall be provided to the parties no less than seven days before trial or hearing.*

The guardian ad litem must submit, either orally or in writing, a recommendation at the completion of a hearing to determine the allocation of parental rights and responsibilities.

Recommendation Fifteen (15)

Final recommendations of the guardian ad litem in cases involving the allocation of parental rights and responsibilities shall conform with the following requirements::

- (a) The recommendation of the guardian ad litem shall be submitted at the end of the trial or hearing;*
- (b) The report shall be treated as a closing argument and shall not discuss substantive information outside the record; and*
- (c) The report shall not be considered as evidence as to any issue before the court, except the court may consider the report for the purpose of making a finding related to the guardian ad litem's recommendation under R.C. 3109.04 (F).*

C. REPORTS IN PROBATE COURT PROCEEDINGS

Recommendation Sixteen (16)

Reports in Probate Court Proceedings shall conform to the following requirements:

- (a) The guardian ad litem's report shall detail the activities performed by the guardian ad litem to accomplish the duties as set forth in the appointment;*
- (b) The substantive information gathered by the guardian ad litem shall be submitted to the court in accordance with the Rules of Evidence and the standards set forth in these recommendations;*
- (c) These reports shall be provided to the parties prior to the hearing and filed with the court; and*
- (d) The court shall consider the recommendation of the guardian ad litem.*

The probate court must first assess the guardian ad litem's anticipated responsibilities and, then, consistent with that assessment, issue an order of appointment which contains clear instruction to the guardian ad litem. The order must specifically delineate the tasks assigned to the guardian ad litem and the issues to be addressed in the guardian ad litem's report.

CONCLUDING COMMENT

A guardian ad litem report assures the court of the completion of the guardian ad litem's appointed duties.

IV. GUARDIAN AD LITEM FUNDING AND PAYMENT

INTRODUCTORY COMMENT

Guardians ad litem and the programs supervising them must receive adequate compensation to ensure that persons are willing to serve the interests of the children for whom they are appointed.

Recommendation Seventeen (17)

The enactment of an amendment to R.C. 2303.201(E), should be pursued in order to permit all courts of common pleas to charge a filing fee in addition to other court costs for the establishment of a special project fund for guardians ad litem.

Pursuant to R.C. 2303.201(E) a court of common pleas may charge a fee on filings in addition to other court costs, to acquire and pay for special projects. State auditors have indicated this funding could be an appropriate source for guardian ad litem programs. Although the language does not specifically mention which divisions of the common pleas courts can implement special projects court costs, it is recommended that the statutes be amended to clarify that each division of the common pleas courts can utilize this funding source. Preexisting programs may not be eligible for funding through this method according to an attorney general's opinion regarding juvenile courts. A proposed bill would permit use of this funding source regardless of the court's prior programming for guardians ad litem. Such legislation would eliminate any concern about using special project funds for guardian ad litem projects.

Recommendation Eighteen (18)

R.C. 120.33 "Court-Appointed or Selected Counsel; Payment" should be amended to allow for the reimbursement of or payment for services of an attorney or lay guardian ad litem appointed by the court pursuant to R.C. 2151.281 of the Revised Code. Reimbursement or payment may only be made when the guardian ad litem has met the minimum standards for guardian ad litem training, evaluation and approved by the court to serve as guardian ad litem.

In cases where it is mandatory that the juvenile court appoint a guardian ad litem for an alleged or adjudicated neglected, abused, delinquent or unruly child, the court may fix the guardian ad litem compensation which is then to be paid from the county treasury.

Recommendation Nineteen (19)

R.C. 3109.04 should be amended to include a provision which mandates the payment of guardian ad litem fees for indigent children in domestic relations cases through the indigent attorney program.

Recommendation Twenty (20)

To remain on the court guardian ad litem appointment list, an attorney must agree to accept one guardian ad litem pro bono appointment per year. The Ohio Supreme Court is encouraged to grant, upon proper verification, one (1) hour of CLE credit per calendar year to an attorney who accepts and completes a pro bono appointment as guardian ad litem.

Recommendation Twenty One (21)

Individual courts are encouraged to develop and support volunteer guardian ad litem programs.

Pursuant to R.C. 2151.28.1(J)(2), the Department of Job and Family Services is required to provide for the training of volunteer guardians ad litem if requested.

Recommendation Twenty Two (22)

Compensation of the guardian ad litem should conform to the following requirements:

- (a) Attorneys who are appointed as guardians ad litem for a children should be paid at least at the median customary, hourly rate for attorneys in that jurisdiction.*
- (b) Guardians ad litem who are not attorneys may be paid at a rate lower than that paid to attorneys.*
- (c) By local rule each court should set a cap on fees for the guardian ad litem. \$1000.00 is suggested. Extraordinary fees should be considered by the court upon the filing of a motion and affidavit.*
- (d) A deposit should be required of any party who requests the appointment of a guardian ad litem. The deposit should be at least \$500.00; or an amount otherwise set by the court for good cause shown; or, an amount as otherwise agreed by the parties and the guardian ad litem and approved by the court.*

CONCLUDING COMMENT

Appropriate funding and payment will encourage the availability of guardians ad litem.

V. MONITORING AND ENFORCEMENT

INTRODUCTORY COMMENT

Rules of superintendence should assist individual courts in monitoring proper training and performance of guardians ad litem.

Recommendation Twenty Three (23)

Each court shall create and maintain a file for every person applying to serve as a guardian ad litem with that court. This file shall contain all material and information required by the applicable Rules of Superintendence of the Ohio Supreme Court for the selection of guardians ad litem.

Recommendation Twenty Four (24)

Each court shall maintain a list of approved guardians ad litem. Each court shall review its list of guardians ad litem on an annual basis for the purpose of determining that all persons whose names are contained on the list are in compliance with the training and education requirements of the Ohio Supreme Court. Each court shall also conduct, on an annual basis, a review of every guardian ad litem's performance on assigned cases during the preceding calendar year.

It is the Task Force's intention that judges and magistrates participate in the review process called for in this recommendation.

Recommendation Twenty Five (25)

Each court shall maintain a file for every approved guardian ad litem. The guardian ad litem shall be responsible for providing the court with a statement indicating compliance with all initial and continuing educational and training requirements. The compliance statement shall include information detailing the date, location, contents and credit hours of any relevant training or education received by the guardian ad litem.

It is suggested that the Ohio Supreme Court consider adopting an appropriate rule waiving the \$5.00 fee required by the Office of Continuing Legal Education for courts requesting a CLE transcript to verify a guardian ad litem's training and education.

Recommendation Twenty Six (26)

Each court shall publicly designate a staff person to receive comments regarding the performance of guardians ad litem practicing before that court. This person shall immediately forward any complaints to the court or appropriate professional licensing

body for review and appropriate action. Any dispositions by the court of any such complaints shall be done in a prompt manner. The court shall maintain a written record in a guardian ad litem's file regarding the nature and disposition of any complaint received.

Designation of a readily identifiable staff member provides the bar and the public with the means by which to convey complaints – as well as compliments – regarding a guardian ad litem's service.

CONCLUDING COMMENT

Recognizing that sample forms may be beneficial, suggested forms are available for use by the courts.³

CONCLUSION TO THE GUARDIAN AD LITEM STANDARDS TASK FORCE REPORT

The Supreme Court must coordinate several separate initiatives in order for the Task Force recommendations to become a reality. First, the Court must promulgate appropriate rules of superintendence to guide the trial courts in implementing appropriate guardian ad litem procedures and policies. Second, the Court should support and encourage the enactment of legislation consistent with these recommendations. Third, the Court should assist in formulating appropriate executive and administrative action. Fourth, the Court must act to encourage statewide training. Fifth, the Court must assist in identifying funding for the training and the services of a guardian ad litem.

Both the 1997 Family Court Feasibility Study and the 2001 Ohio Task Force on Family Law and Children gave suggestions on how the courts in Ohio may better serve families. The focus of this Task Force is to improve advocacy for children in Ohio courts through the services of guardians ad litem.

Further, the recommendations of this Task Force are consistent with the vision of the Court as stated in the Ohio Courts Futures Commission Report. Specifically the Commission envisioned a future where courts are approachable to all citizens, including the citizens of Ohio least able to assert their rights - the children. In adopting these recommendations and taking the steps necessary to implement the recommendations, this Court will significantly improve the judicial system in its impact upon the lives of the children of this State.

³ Sample Application, Order of Appointment, and Order for Payment are included in Appendix B.

APPENDIX A

GUARDIAN AD LITEM STANDARDS TASK FORCE MEMBERS

Honorable David A. Ellwood, Chair, Guernsey County Common Pleas Court
Reports Subcommittee

Cecily A. Crider, Esq., Ohio Northern University, Pettit College of Law
Training Subcommittee; Monitoring and Enforcement Subcommittee

Honorable Steven D. Eckstein, Crawford County Probate/Juvenile Court
Co-Chair, Monitoring and Enforcement Subcommittee; Funding and Payment Subcommittee

Tammie K. Hursh, Magistrate, Allen County Juvenile Court
Training Subcommittee; Funding and Payment Subcommittee

Helen Jones-Kelley, Esq., Montgomery County Children Services
Chair, Training Subcommittee; Services and Duties Subcommittee

Honorable Sharon L. Kennedy, Butler County Domestic Relations Court
Services and Duties Subcommittee; Funding and Payment Subcommittee

Jacob A. H. Kronenberg, Esq., Cuyahoga County
Chair, Services and Duties Subcommittee; Funding and Payment Subcommittee

Honorable Dana S. Preisse, Franklin County Domestic Relations Court
Training Subcommittee; Services and Duties Subcommittee; Reports Subcommittee

*Honorable James A. Ray, Lucas County Juvenile Court/
Judith A. Fornof, Magistrate, Lucas County Juvenile Court*
Chair, Funding and Payment Subcommittee; Reports Subcommittee

William Rickrich, Magistrate, Licking County Domestic Relations Court
Co-Chair, Monitoring and Enforcement Subcommittee; Services and Duties Subcommittee

Honorable Thomas A. Swift, Trumbull County Probate Court
Services and Duties Subcommittee; Reports Subcommittee; Funding and Payment
Subcommittee

Yeura Venters, Esq., Director, Franklin County Public Defender's Office
Training Subcommittee; Services and Duties Subcommittee; Reports
Subcommittee

Jackie Wilson, Director, Ohio CASA/GAL Association
Chair, Reports Subcommittee; Training Subcommittee; Monitoring and
Enforcement Subcommittee

APPENDIX B

GUARDIAN AD LITEM APPLICATION

County: _____

Court: _____

Contact Information:

Name: _____

Supreme Court Registration Number: _____

Business Address: _____

Business Fax Number: _____

Business E-mail: _____

Training:

Specific guardian ad litem training completed, including dates taken:

General training completed, including dates taken, relevant to performance as a guardian ad litem:

Other skills and qualifications relevant to performance as a guardian ad litem (e.g. former employment, other educational background):

Community involvement relevant to performance as a guardian ad litem:

IN THE COURT OF COMMON PLEAS
(DOMESTIC RELATIONS DIVISION)
_____ COUNTY, OHIO

Plaintiff/1st Petitioner/Petitioner

JUDGE _____

MAGISTRATE _____

-VS-

CASE NO. _____

Defendant/2nd Petitioner/Respondent

**ORDER APPOINTING
GUARDIAN AD LITEM**

This matter is before the Court on the motion of the _____ to appoint a Guardian *ad litem* for the minor child(ren) herein. The Court finds this motion to be well-taken pursuant to Revised Code Section 3109.04(B)(2).

IT IS THEREFORE ORDERED that _____ is appointed Guardian *ad litem* of the minor child(ren): _____ (DOB _____), _____ (DOB _____), and _____ (DOB _____).

The Guardian *ad litem* herein appointed shall perform whatever functions are necessary to protect or serve the best interest of the child(ren). The Guardian *ad litem* shall be given notice of and shall appear at all proceedings scheduled in this matter.

Counsel shall serve copies of all pleadings on the Guardian *ad litem* as provided by the Ohio Rules of Civil Procedure.

The Guardian *ad litem* shall prepare a written report setting forth his/her findings and recommendations regarding the minor child(ren) and submit said report to the Court and counsel not less than _____ days prior to the final hearing in this matter.

IT IS THEREFORE ORDERED that upon presentation of a copy of the Order to any agency, hospital, organization, school, person or office, including but not limited to the Clerk of this Court, human services agencies, public children's services agencies, private child placement agencies, pedestrians, psychiatrists, other physicians, psychologist, or law enforcement agencies, the Guardian *ad litem* shall be permitted to inspect and copy any records relating to the above-named child(ren) without the consent of the child(ren) or parent(s).

IT IS THEREFORE ORDERED that the Clerk of the _____ County, Ohio, Court shall make copies of filings requested by the Guardian *ad litem* appointed herein and that these copies shall be assessed to the costs in this matter.

IN THE COURT OF COMMON PLEAS
(DOMESTIC RELATIONS DIVISION)
_____ COUNTY, OHIO

Plaintiff/1st Petitioner/Petitioner

JUDGE _____

MAGISTRATE _____

-VS-

CASE NO. _____

Defendant/2nd Petitioner/Respondent

**ORDER FOR PAYMENT OF
GUARDIAN AD LITEM FEES**

Not a Final Appealable Order

Final Appealable Order

Date of Hearing _____

The Court finds _____ was appointed Guardian *ad litem* in the above-captioned matter, has applied for fees for services rendered from _____ to _____, and the work performed was reasonable, IT IS HEREBY ORDERED:

- The Clerk of Courts shall pay said Guardian *ad litem* the sum of \$ _____, which was deposited on or about _____ by _____.
- The Plaintiff/1st Petitioner/Petitioner shall pay said Guardian *ad litem* the sum of \$ _____ within ____ days of this Order.
- The Defendant/2nd Petitioner/Respondent shall pay said Guardian *ad litem* the sum of \$ _____ within ____ days of this Order.
- _____ shall pay said Guardian *ad litem* the sum of \$ _____ within ____ days of this Order.

A review hearing shall be held _____ at _____ A.M. P.M.

ANY PARTY WHO HAS FAILED TO PAY PURSUANT TO THIS ORDER SHALL APPEAR AT THIS HEARING.

SO ORDERED.

Judge/Magistrate

Plaintiff/1st Petitioner/Petitioner

Defendant/2nd Petitioner/Respondent

Attorney for
Plaintiff/1st Petitioner/Petitioner

Attorney for
Defendant/2nd Petitioner/Respondent

The Court ORDERS _____ to deposit \$ _____ with the Clerk of Courts within ____ days of this order. The Court shall make a final determination of the allocation for responsibility for payment of the final fees of the Guardian *ad litem* at the final hearing of this matter.

IT IS SO ORDERED.

Judge/Magistrate