

RULE 15 (H)

GUARDIAN AD LITEM

A. Applicability

This rule shall apply in all juvenile and domestic relations cases where the court appoints a guardian ad litem to protect and act in the best interest of a child in matters regarding the allocation of parental rights and responsibilities.

B. Definitions

For purposes of this rule:

- (1) "Guardian ad litem" means an individual appointed to assist a court in its determination of a child's best interest.
- 2) "Child" means:
 - (a) A person under eighteen years of age, or
 - (b) A person who is older than eighteen years of age who is deemed a child until the person attains twenty-one years of age under section 2151.011(B)(5) or section 2152.02(C) of the Revised Code.
 - (c) A child under R.C. 3109.04 or a disabled child under R.C.3119.86 who falls under the jurisdiction of a domestic relations court or of a juvenile court with a paternity docket.

C. Appointment

In order to superintend the best interest of minor children/incompetents in any action over which this court has jurisdiction, the court may appoint a guardian ad litem upon its own motion or the motion of either party. When necessary, the court may also appoint an attorney to represent the child, or may appoint an attorney in the dual capacity of attorney and guardian ad litem for the child, so long as those roles do not conflict. Said appointment shall be made by the required entry attached hereto and incorporated herein.

It shall be the responsibility of counsel in the case to copy the guardian ad litem with all pleadings, notices of hearings and depositions, entries and any other necessary documents. Any additional expense incurred by the guardian ad litem as a result of counsel's failure to notify, including the costs of transcripts, shall be charged to the party (ies) responsible for such failure.

D Eligibility and Training Requirements

The Court, through its Court Administrator, will maintain a list of persons or attorneys who have completed the required training and are eligible to serve as guardian ad litem.

In order to serve as a guardian ad litem, an applicant shall have, at a minimum, the following training:

(1) Successful completion of a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education training in each succeeding calendar year to qualify for continued appointment.

(2) The pre-service training course must be the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's pre-service training program, or with prior approval of the Common Pleas Court Judge, be a course at least six hours in length that covers the topic areas in division (3), below.

(3) To meet the requirements of this rule, the pre-service course shall include training on all the following topics:

(a) Human needs and child development including, but not limited to, stages of child development;

(b) Communication and diversity including, but not limited to, communication skills with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of the child, sensitivity, building trust, multicultural awareness, and confidentiality;

(c) Preventing child abuse and neglect including, but not limited to, assessing risk and safety;

(d) Family and child issues including, but not limited to, family dynamics, substance abuse and its effects, basic psychopathology for adults and children, domestic violence and its effects;

(e) Legal framework including, but not limited to, records checks, accessing, assessing and appropriate protocol, a guardian ad litem's role in court, local resources and service practice, report content, mediation and other types of dispute resolution.

(4) Additionally, a guardian ad litem shall annually complete a three hour continuing education course provided by the Supreme Court of Ohio or by the Ohio CASA/GAL Association.

(5) To meet the requirements of this rule, the three hour continuing education course shall:

(a) Be specifically designed for continuing education of guardians ad litem and not pre-service education; and

(b) Consist of advanced education.

(6) Guardians ad litem may be removed from the court appointment list with the approval of the Judge of the Common Pleas Court. After losing eligibility for any reason, a guardian ad litem may not seek reinstatement of eligibility for six months and thereafter must submit a new application requesting reinstatement. If a guardian ad litem fails to complete a three hour continuing education course within any calendar year, that person shall not be eligible to serve as a guardian ad litem until this continuing education requirement is satisfied. If the person's gap in continuing education is three calendar years or less, the person shall qualify to serve after completing a three hour continuing education course offered

under this rule. If the gap in continuing education is more than three calendar years that person must complete a six hour pre-service education course to qualify to serve.

E. Application/Resume

Upon completion of the required pre-service training, a person seeking to serve as a guardian ad litem shall submit an application/resume to the Common Pleas Court Administrator. The application/resume shall be on the form provided by the Common Pleas Court (Item 1, provided at the end of Rule 15). The application/resume shall be accompanied by a copy of the applicant's background disclosure statement..

An individual who is serving as a guardian ad litem shall submit an application/resume by the first day of January each year to the Common Pleas Court Administrator in order to remain on the guardian ad litem list.

Eligible guardians ad litem shall notify the court of changes in their status, address or telephone number.

F. Responsibilities and Duties of the Guardian ad Litem

In performing their responsibilities and duties, the Guardian Ad Litem shall comply with the requirements of Rule 48 D of the Rules of Superintendence.

G. Reports and Court Appearances

The guardian ad litem may prepare and file written interim reports detailing observations and recommendations, but in all cases shall be present at all hearings pertaining to the children. The attorney/guardian ad litem may subpoena and examine independent witnesses.

The guardian ad litem has a duty to notify the court and counsel if the child's wishes are in opposition to the guardian ad litem's recommendation.

A guardian ad litem shall prepare a written final report, including recommendations to the court, within the times set forth in this division. The report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the guardian ad litem in reaching the guardian ad litem's recommendations and in accomplishing the duties required by statute, by court rule, and in the court's Order of Appointment. In addition, the following shall apply to guardian ad litem reports:

(1) Proceedings involving the allocation of parental rights and responsibilities, the final report shall be filed with the court and made available to the parties for inspection no less than seven days before the final hearing unless the due date is extended by the court. Written reports may be requested in person or by phone by the parties or their legal representatives. A copy of the final report shall be provided to the court at the hearing and also provided to the Common Pleas Court Administrator. The court shall consider the recommendation of the guardian ad litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.

H. Termination of Appointment

The guardian ad litem shall represent the best interest of the minor child(ren) until discharged by the court. At the conclusion of the proceedings for which the appointment was made, the guardian ad litem shall submit a motion and entry for withdrawal as the guardian ad litem, and dismissing the child(ren) as party(ies) to the case, to the assigned judge.

However, whenever feasible, the same guardian ad litem shall be appointed for a specific child in any subsequent case relating to the best interest of the child.

I. Complaints Regarding Guardians ad Litem; Motions to Remove Guardian ad Litem

(1) Comments or complaints regarding the performance of a guardian ad litem appointed pursuant to this rule shall be in writing and shall be directed to the Common Pleas Court Administrator.

A copy of comments and complaints submitted to the court shall be provided to the guardian ad litem who is the subject of the complaint or comment. The Common Pleas Court Administrator may forward any comments and complaints to the Judge of the court for consideration and appropriate action. The Common Pleas Court Administrator shall maintain a written record in the guardian ad litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject guardian ad litem of the disposition.

(2) Motions to remove a guardian ad litem shall be scheduled for hearing before the judge or magistrate assigned to adjudicate the allocation of parental rights and responsibilities.

J. Annual Certification

The court shall annually conduct a review of its list to determine that all individuals are in compliance with the training and education requirements of this rule, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.

All individuals on the guardian ad litem list shall certify annually they are unaware of any circumstances that would disqualify them from serving.

K. Fees and Deposits

When an attorney/guardian ad litem requires fee arrangements inconsistent with those set forth in the required entry, he/she shall so notify the court prior to accepting an appointment.

In actions for divorce, dissolution, alimony, modification of custody or visitation (parenting-time), if the Court appoints a Guardian Ad Litem, the Court requires the parties to pre-pay the guardian ad litem fee. The appointment of the guardian ad litem does not take effect, or bind the guardian to any duty or legal obligation until such time as the fee has been deposited with the clerk.

L. Responsibilities of the Court

Pursuant to Rule 48(G), the Court Administrator or, with Court approval, the Court Administrator's designee is authorized and directed to do the following:

1. Maintain and update a public list of Court approved guardians ad litem, while maintaining their privacy under Rules 44 through 47 of the Rules of Superintendence.
2. Coordinate and maintain the application/resume process for individuals wishing to serve as guardians ad litem.
3. Maintain files for all applicants and individuals who are approved to serve as guardians ad litem. Within the file of each applicant, a copy will be included of each applicant's training, experience, expertise, background check and qualifications.
4. Conduct or cause to be conducted at least annually a review of the guardian ad litem list to determine that all listed individuals are in compliance with the training and education requirements of this Local Rule, that all listed individuals have performed in a satisfactory manner on all assigned cases during the preceding year and that all individuals are otherwise qualified under this Local Rule and Rule 48 of the Rules of Superintendence to serve. Written evidence of this review shall be maintained in each individual's file.
5. Require each individual on the list to certify annually, by the first day of each year, that he or she is unaware of any circumstances that would disqualify him or her from serving and to report training he or she has attended. The Judge, Magistrate or Court Administrator shall complete the "Guardian Ad Litem Annual Review Form", which is item 2, provided at the end of Rule 15.
6. The Common Pleas Court Administrator shall serve as the person designated by the Court to accept and consider comments regarding the performance of guardians ad litem appointed by the Court. A copy of the comment shall be provided to the guardian ad litem in question and shall be forwarded to the Judge assigned to the subject case. A written record of the nature and disposition of any comment shall be kept in the guardian ad litem's file. The person making the comment or complaint and the guardian ad litem shall be notified in writing of the disposition of such complaint or comment.

M. Procedure of Appointment by Court.

The Court shall appoint guardians ad litem from a rotating list of eligible candidates (preserving Individual privacy) as maintained by the Court so that the workload is equitably distributed among the eligible candidates. At times, variables such as professional conflict, availability and types of case may take priority over the rotating procedure.

