

Rule 4-906. Guardian ad litem program.**Intent:**

To establish:

(1) the responsibilities of the Guardian ad Litem Oversight Committee ("Committee") ~~established in Rule 1-205~~;

(2) ~~To establish~~ the policies and procedures for the management of the guardian ad litem ("GAL") program;

~~To establish responsibility for management of the program.~~

(3) ~~To establish~~ the policies and procedures for the selection of ~~guardians-ad litem~~ GALs;

(4) ~~To establish~~ the policies and procedures for payment for ~~guardian-ad litem~~ GAL services; ~~and~~;

(5) ~~To establish~~ the policies and procedures for complaints regarding ~~guardians-ad litem~~ GALs and volunteers.

Applicability:

This rule ~~applies~~shall apply to the management of the ~~guardian-ad litem~~ GAL program.

This rule does not affect the authority of the Utah State Bar to discipline a ~~guardian-ad litem~~ GAL.

Statement of the Rule:

(1) **Guardian ad Litem Oversight Committee.** The Committee ~~will~~shall:

(1)(A) develop and monitor policies of the Office of Guardian ad Litem ("Office") to:

(1)(A)(i) ensure the independent and professional representation of a child-client and the child's best interest; and

(1)(A)(ii) ensure compliance with federal and state statutes, rules, and case law;

(1)(B) recommend rules of administration and procedure to the ~~Judicial~~ Council and Supreme Court;

(1)(C) select the Director of the Office ~~of Guardian-ad Litem~~ ("Director") in consultation with the ~~State Court~~ Administrative Office;

(1)(D) develop a performance plan for the Director;

(1)(E) monitor the Office's caseload and recommend to the ~~Judicial~~ Council adequate staffing of ~~guardians-ad litem~~ GALs and staff;

(1)(F) develop standards and procedures for hearing and deciding complaints and appeals of complaints; and

(1)(G) hear and decide complaints and appeals of complaints as provided in this rule.

(2) **Qualifications of the ~~D~~director.** The Director ~~will~~shall have the qualifications provided ~~in~~by the Utah Code.

(3) **Responsibilities of the ~~D~~director.** In addition to responsibilities under the Utah Code, the Director ~~will~~shall have the following responsibilities:-

(3)(A) ~~m~~Manage the Office ~~of Guardian ad Litem~~ to ensure that minors who have been appointed a ~~guardian ad litem~~GAL by the court receive qualified ~~guardian ad litem~~GAL services:-

(3)(B) ~~d~~Develop the budget appropriation request to the legislature for the ~~guardian ad litem~~GAL program:-

(3)(C) ~~c~~Coordinate the appointments of ~~guardians ad litem~~GALs among different levels of courts:-

(3)(D) ~~m~~Monitor the services of the ~~guardians ad litem~~GALs, staff, and volunteers by regularly consulting with users and observers of ~~guardian ad litem~~GAL services, including judges, court executives and clerks, and by requiring the submission of appropriate written reports from the ~~guardians ad litem~~GAL:-

(3)(E) ~~Determine whether the guardian ad litem caseload in Judicial Districts 1, 5, 6, 7, and 8 is best managed by full or part time employment or by contract.~~monitor attorney GAL caseloads to ensure compliance with national standards;

(3)(F) ~~s~~Select ~~guardians ad litem~~GALs and staff for employment as provided in this rule, ~~s~~Select volunteers, ~~and~~, ~~c~~Coordinate appointment of conflict counsel:-

(3)(G) ~~s~~Supervise, evaluate, and discipline ~~guardians ad litem~~GALs and staff employed by the courts and volunteers:-

~~(3)(H) s~~Supervise and evaluate the quality of service provided by ~~guardians ad litem~~GALs under contract with the court:-

(3)(~~I~~H) ~~m~~Monitor and report to the Committee ~~guardian ad litem~~GAL, staff, and volunteer compliance with federal and state statutes, rules, and case law, ~~and~~:-

(3)(~~J~~I) ~~p~~Prepare and submit to the Committee in ~~October~~August an annual report regarding the development, policy, and management of the ~~guardian ad litem~~GAL program and the training and evaluation of ~~guardians ad litem~~GALs, staff, and volunteers. The Committee may amend the report prior to release to the Legislative Interim Human Services Committee.

(4) **Qualification and responsibilities of ~~guardian ad litem~~GALs.** A ~~guardian ad litem~~GAL ~~will~~shall be admitted to the practice of law in Utah and ~~will~~shall demonstrate experience and interest in the applicable law and procedures. The ~~guardian ad litem~~GAL ~~will~~shall have the responsibilities established ~~in~~by the Utah Code.

(5) **Selection of ~~guardian ad litem~~GAL for employment.**

(5)(A) A ~~guardian ad litem~~GAL employed by the Administrative Office ~~of the Courts~~ is an at-will employee subject to dismissal by the Director with or without cause.

(5)(B) A ~~guardian ad litem~~GAL employed by the Administrative Office ~~of the Courts~~ ~~will~~shall be selected by the Director. Prior to the Director's ~~making a~~ selection, a panel ~~will~~shall interview applicants and make hiring recommendations to the Director. The

interview panel ~~will~~shall consist of the Director (or Director's designee) and two or more of the following persons:

(5)(B)(i) the managing attorney of the local ~~guardian-ad-litem~~GAL office;

(5)(B)(ii) the ~~trial~~Ccourt ~~E~~xecutive of the district court or juvenile court;

(5)(B)(iii) a member of the Committee;

(5)(B)(iv) a member of the Utah State Bar Association selected by the Director; or

(5)(B)(v) a member selected by the Director.

(6) Conflicts of interest and disqualification of ~~guardian-ad-litem~~GAL.

(6)(A) In cases where a ~~guardian-ad-litem~~GAL has a conflict of interest, the ~~guardian-ad-litem~~GAL ~~will~~shall declare the conflict and request that the court appoint a conflict ~~guardian-ad-litem~~GAL in the matter. Any party who perceives a conflict of interest may file a motion with the court setting forth the nature of the conflict and a request that the ~~guardian-ad-litem~~GAL be disqualified from further service in that case. Upon a finding that a conflict of interest exists, the court ~~will~~shall relieve the ~~guardian-ad-litem~~GAL from further duties in that case and appoint a conflict ~~guardian-ad-litem~~GAL.

(6)(B) The Administrative Office ~~of the Courts~~ may contract with attorneys to provide conflict ~~guardian-ad-litem~~GAL services.

(6)(C) If the conflict ~~guardian-ad-litem~~GAL is arranged on a case-by-case basis, the ~~c~~Court ~~will~~shall use the order form approved by the Council. The ~~o~~Order ~~will~~shall include a list of the duties of a ~~guardian-ad-litem~~GAL. The court ~~will~~shall ~~distribute~~file the ~~original~~oOrder ~~as follows: original into~~ the case ~~file~~ and ~~will~~distribute one copy each to: the appointed conflict ~~guardian-ad-litem~~GAL; the ~~guardian-ad-litem~~GAL; all parties of record; the parents, guardians or custodians of the child(ren); the ~~C~~court ~~E~~xecutive; and the Director.

(6)(D) A conflict ~~guardian-ad-litem's~~GAL's compensation ~~will~~shall not exceed \$~~100~~50 per hour or \$~~3,000~~1000 per case in any ~~twelve-month~~twelve-month period, whichever is less. The per case compensation limit includes incidental expenses incurred in the case. Under extraordinary circumstances, the Director may ~~extend~~increase the ~~payment~~compensation limit upon request from the conflict ~~guardian-ad-litem~~GAL. The request ~~will~~shall include justification showing that the case required work of much greater complexity than, or time far in excess of, that required in most ~~guardian-ad-litem~~GAL assignments. ~~Incidental expenses incurred in the case will~~shall be included within the limit. If a case is appealed, ~~the limit shall be extended by an additional \$400~~compensation will be as set forth above.

(7) Staff and ~~y~~Volunteers.

(7)(A) The Director ~~will~~shall develop a strong volunteer component to the ~~guardian-ad-litem~~GAL program and provide support for volunteer solicitation, screening, and training. Staff and volunteers ~~will~~shall have the responsibilities established ~~in~~by the Utah Code.

(7)(B) Training for staff and volunteers ~~will~~shall be conducted under the supervision of the attorney ~~guardian-ad-litem~~GAL with administrative support provided by the Director. Staff and volunteers ~~will~~shall receive training in the areas of child abuse, child psychology, juvenile and district court procedures, and local child welfare agency

procedures. Staff and volunteers ~~will~~shall be trained in the guidelines established by the National Court Appointed Special Advocate Association.

(8) Private guardians ad litem (“PGALs”).

(8)(A) List. The Director ~~will~~shall maintain a list of ~~private attorney guardians ad litem~~PGALs qualified for appointment.

(8)(B) Application. To be included on the list of eligible ~~private attorney guardians ad litem~~PGALs, ~~an applicant~~s shall must apply for eligible private attorney guardian statussubmit a written application to the ~~Utah Office of Guardian ad Litem~~ and:

(8)(B)(i) ~~show membership~~be a member in good standing in the Utah State Bar;

(8)(B)(ii) provide a Bureau of Criminal Identification criminal history report;

(8)(B)(iii) provide a Utah Division of Child and Family Services cChild aAbuse dData-Base report ~~(and like similar~~ information from any state in which the applicant has resided as an adult);

(8)(B)(iv) provide a certificate of completion for any initial or additional necessary training requirements established by the Director;

(8)(B)(v) agree to perform in a competent, professional, proficient, ethical, and appropriate manner;

(8)(B)(vi) ~~and to~~ meet any minimum qualifications as determined by the Director; and

(8)(B)(vii) agree to be evaluated at the discretion of the Director for competent, professional, proficient, ethical, appropriate conduct, and/or performance, and minimum qualifications.

(8)(C) Appointment. Upon the appointment by the court of a ~~private guardian ad litem~~PGAL, the court ~~will~~shall:

(8)(C)(i) use the following language in its order: "The Court appoints a private attorney guardian ad litem to be assigned by the Office of Guardian ad Litem, to represent the best interests of the minor child(ren) in this matter.";

(8)(C)(ii) designate in the order whether the ~~private attorney~~PGAL guardian ad litem ~~will~~shall:

(8)(C)(ii)(a) be paid the set fee, as established by paragraph (8)(F), and an initial retainer;

(8)(C)(ii)(b) not be paid and serve pro bono; or

(8)(C)(ii)(c) be paid at a rate less than the set fee in paragraph (8)(F); and

(8)(C)(iii) send the order to the Director c/o the Private Attorney Guardian ad Litem Program.

(8)(D) Assignment. Upon receipt of the court's order appointing a ~~private guardian ad litem~~PGAL, the Director ~~will~~shall contact and assign the case to an eligible attorney, if available.

(8)(E) **Notice of appearance and representation.** Upon accepting the court's appointment, the assigned attorney ~~will~~shall file a notice of appearance with the court within five business days of acceptance, and ~~will~~shall thereafter represent the best interests of the minor(s) until released by the court.

(8)(F) **Fees.** The hourly fee to be paid by the parties and to be ordered and apportioned by the court against the parties ~~will~~shall be \$150.00 per hour or ~~at a higher rate as~~ determined reasonable by the court. The retainer amount ~~will~~shall be \$1,000 or a different amount determined reasonable by the court. The retainer amount ~~will~~shall be apportioned by the court among the parties and paid by the parties.

(8)(G) **Education.** Each year, ~~private attorneys guardian ad litem~~PGALs must~~shall~~ complete three hours of continuing legal education (CLE) ~~credits that are~~ relevant to the role and duties of a ~~private attorney guardian ad litem~~PGAL. To meet this requirement, the Office ~~of Guardian ad Litem~~will~~shall~~ provide training opportunities that are accredited by the Utah State Bar Board of Mandatory Continuing Legal Education. In order to provide access to all ~~private attorney guardians ad litem~~PGALs, the Office ~~of Guardian ad Litem~~shall provide multiple trainings at locations throughout the State or online.

(8)(H) Removal.

(8)(H)(i) A ~~private attorney guardian ad litem~~PGAL who fails to complete the required number of CLE hours ~~will~~shall be notified that unless all requirements are completed and reported within 30 days, the Director may remove the ~~private attorney guardian ad litem~~PGAL from the list of eligible ~~private attorney guardians ad litem~~PGALs.

(8)(H)(ii) The Director may remove with or without a complaint a PGAL from the list of eligible PGALs for failure to perform or conduct themselves in a competent, professional, proficient, ethical, or appropriate manner, or for failure to meet minimum qualifications, including the annual CLE requirement. Within a reasonable time after the removal, and in the event the PGAL has not yet been released by the court in a pending case, the Director will provide written notice to the court of the Director's action, and the court may, in its discretion, determine whether the PGAL should be released from the case.

(9) Complaints and appeals.

(9)(A) Complaints against Director or administrative policies. (9)(A)(i) Any person may file Complaints against the Director or an administrative policy or procedure must be submitted to with the chair of the Committee. Complaints submitted to the Director's office must be sent to the Committee chair within a reasonable period of time, but not more than 14 days after receipt. a complaint regarding the Director, or regarding an administrative policy or procedure, not including complaints regarding a particular guardian ad litem, private guardian ad litem, or volunteer. If deemed necessary, the Committee may enter a recommendation to the Judicial Council, which may include discipline of that the Director be disciplined.

~~(9)(A)(ii) If a complaint regarding the Director or an administrative policy or procedure is received in the Director's office, the Director shall forward the complaint to the chair of the Committee within a reasonable time, but not more than 14 days after receipt.~~

(9)(B) Complaints against GALs or volunteers.

~~(9)(B)(i) Any person may file with the Director a~~ Complaints against ~~regarding a guardian ad litem GAL employed by the Office of Guardian ad Litem, a private attorney guardian ad litem PGAL, or a volunteer, as defined in by Utah Code A section 78A-6-902(4)(a)~~ 207, must be submitted to the Director. The decision of the Director regarding the complaint is final and not subject to appeal.

~~(9)(B)(ii) If a guardian ad litem GAL and a volunteer disagree on the major decisions involved in representation of the client, either may notify the Director that the dispute cannot be resolved. The decision of the Director regarding the dispute is final and not subject to appeal.~~

~~(9)(B)(iii) The failure of the Director to satisfactorily resolve a complaint against a guardian ad litem GAL, private attorney guardian ad litem PGAL, or volunteer is not grounds for a complaint against the Director.~~

~~(9)(E) The Director may remove with or without a complaint a private attorney guardian ad litem from the list of eligible private guardians ad litem for failure to perform or conduct themselves in a competent, professional, proficient, ethical and/or appropriate manner or for failure to meet minimum qualifications, including the annual continuing legal education requirement. Within a reasonable time after the removal, and in the event the private attorney guardian ad litem has not yet been released by the court in a pending case, the Director shall provide written notice to such court of the Director's action, and the court may, in its discretion, determine whether the private attorney guardian ad litem should be released from the case.~~

(9)(C)(i) Complaint submission. A complaint ~~shall~~ must be in writing; and include:

~~(9)(C)(i) stating~~ the name and contact information of the complainant;

~~(9)(C)(ii) the name of the child-(ren) or children involved;~~ and

~~(9)(C)(iii) the facts upon which the complaint is based in sufficient detail to inform the Committee or the Director of the nature and date of the alleged misconduct.~~ the nature of the complaint and the facts upon which the complaint is based.

~~(9)(D)(ii) Investigation.~~ In resolving a complaint, the Director or ~~the~~ Committee will ~~shall~~ conduct ~~such an~~ investigation as determined by the Director or ~~the~~ Committee ~~determines~~ to be reasonable. The Director or ~~the~~ Committee may meet separately or together with the complainant and the person against whom the complaint is filed.

~~(9)(E)(iii) Decision.~~ The decision of the Director may include discipline of the person against whom the complaint is filed. If the complaint is against a ~~private guardian ad litem PGAL~~, the decision may include removal of the ~~private guardian ad litem PGAL~~ from the list of ~~private guardians ad litem PGALs~~ and the conditions for reinstatement.

~~(9)(F)(iii) Applicability.~~ ~~This subsection Paragraph (9)~~ does not apply to conflict ~~guardians ad litem GALs.~~

Effective: ~~11/1/2014~~ May 1, 2026