

## **Rule 15. Guardians ad Litem**

### **(A) When Appointed**

The Court shall appoint a Guardian ad litem whenever the Court determines it is necessary to protect the interests of a child or adult, or whenever the Court is required to do so by statute or rule. A Guardian ad litem shall be appointed for a child at the cost of his/her parent(s), guardian(s) or legal custodian(s), or the State, when appropriate.

### **(B) Qualifications**

A Guardian ad litem shall have the following qualifications:

- (1) Currently licensed as an attorney in Ohio and in good standing with the Ohio Supreme Court;
- (2) Completed the court-sponsored New Guardian ad Litem Training;
- (3) Completed the court-sponsored advanced training/continuing education as and when required;
- (4) All other requirements as listed in Sup. R. 48 and in the Guardian ad Litem Policy and Procedure Manual.

### **(C) How Appointed**

The Guardian ad Litem Project shall maintain an alphabetical listing of qualified Guardians ad litem. When a jurist appoints a Guardian ad litem, the jurist shall select the next available individual from the Guardian ad litem list. When the assigned jurist determines unique circumstances exist, or to facilitate the expeditious management of the docket, the jurist may appoint any individual from the Guardian ad litem list.

### **(D) Compensation**

- (1) At the time the Court appoints a Guardian ad litem for a child and prior to ordering that the state pay Guardian ad litem fees, the Court shall require the parties to execute an affidavit of indigency and a financial disclosure form.
- (2) When a party is not indigent, the Court may order the party to post a bond to secure payment of Guardian ad litem fees, sua sponte or upon motion by the Guardian ad litem. As the case proceeds, the Court may order a party to post additional bond.
- (3) If the filing party fails to post the bond ordered to secure payment of Guardian ad litem fees, the Court may dismiss the party's complaint or motion or may impose any other sanction the Court deems appropriate. If any other party fails to post the bond ordered, the Court may impose any sanction the court deems appropriate.
- (4) The Guardian ad litem shall maintain accurate time and expense records and shall provide monthly billings to the parties during the pendency of the case

and shall adhere to the Guidelines for Guardians ad litem practicing in the Court of Common Pleas - Juvenile Division.

- (5) Upon motion for Guardian ad litem fees to be paid by the parties, the Court shall conduct a hearing to determine 1) the amount of time the Guardian ad litem has expended to represent the best interests of the child; 2) whether the time and services rendered were reasonable and necessary in the Guardian ad litem's representation of the best interests of the child; 3) whether the Guardian ad litem's hourly rate is commensurate with customary fees in this locality; and 4) the amount each party shall contribute toward the Guardian ad litem's fees.
  - (6) An order for payment of Guardian ad litem fees shall be a joint and several judgment. Guardian ad litem fees are assessed as and for additional child support and as such are not dischargeable in bankruptcy.
  - (7) If a party fails to pay the Guardian ad litem fees ordered, the Court may impose any sanction the Court deems appropriate, including but not limited to a fine, community service, and/or jail time.
  - (8) In cases where the State is ordered to pay Guardian ad litem fees, upon the filing of Form OPD-206R, compensation to the Guardian ad litem shall be paid in accordance with the Cuyahoga County Juvenile Court Fee Bill Policy and Fee Schedule in effect at the time the Guardian ad litem was appointed. The Guardian ad litem shall be compensated at the authorized rate for in-court and out-of-court time, not to exceed the maximum fee cap in effect at the time of acceptance of the assignment.
  - (9) The filing of a motion to extend or to modify a previous dispositional order shall be considered a new appointment for billing purposes pursuant to the Cuyahoga County Juvenile Court Fee Bill Policy and Fee Schedule.
  - (10) For good cause and with notice, the Administrative Judge may modify the Court's Fee Bill Policy and Fee Schedule in accordance with budget restraints.
  - (11) It shall be the responsibility of the Guardian ad litem to file in triplicate (an original plus two copies) a completed and signed Form OPD-206R and to meet all requirements of the Cuyahoga County Juvenile Court GAL Fee Bill Policy in effect at the time the fee bill is filed.
  - (12) If a Guardian ad litem files a Motion for Extraordinary Fees with the Clerk of Court, it shall be referred to the assigned judge for review and processing. If approved by the assigned judge, the motion shall then be forwarded to the Administrative Judge for final approval of payment.
- (E) Dual Appointment Capacity. In the event a Guardian ad litem is also appointed as the child's legal counsel and a conflict of interest arises in the dual appointment, the Guardian ad litem/attorney shall immediately notify the Court and withdraw as Guardian ad litem pursuant to R.C. 2151.281(H) and Juv. R. 4(C)(2).
- (F) Periodic Review

The court shall periodically review all Guardian ad litem appointments and assignment practices to ensure the equitable distribution of appointments among the attorneys for each list maintained by the court in section (B) (3) of this rule.

(G) Responsibilities of a Guardian ad litem

At a minimum, a Guardian ad litem shall comply with the Guidelines for Guardians ad litem adopted by the Guardian ad Litem Project Advisory Committee on June 2, 1994 and as amended, as well as with all requirements as listed in Sup. R. 48.

(H) Quality Control

The Court requires quality representation by members of the bar who are appointed as Guardians ad litem. The Court may remove a Guardian ad litem from the case assigned in the interest of justice and for good cause shown. The Guardian ad litem Project may remove a Guardian ad litem from the approved list of Guardians ad litem pursuant to the procedure in effect at the time.

(I) Duration of Assignment

The duration of an attorney's role as Guardian ad litem shall be controlled by R.C. 2151.281, Sup. R. 48, and the Guidelines for Guardians Ad Litem.

(J) Process: Notice

Absent a prohibiting disability, in conformity with Local Rule 39, a Guardian ad litem appointed to represent a party before the Court shall provide a current email address to the Court's Clerk's Office. Unless the Court determines otherwise, notice of all upcoming hearings will be provided to the attorney via the email address they have provided.

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