

**RULE 48.03. Responsibilities of Guardian Ad Litem.**

**(A) General responsibilities**

The responsibilities of a guardian ad litem shall include, but are not limited to, the following:

- (1) Provide the court recommendations of the best interest of the child. Recommendations of the best interest of the child may be inconsistent with the wishes of the child or other parties.
- (2) Maintain independence, objectivity, and fairness, as well as the appearance of fairness, in dealings with parties and professionals, both in and out of the courtroom, and have no ex parte communications with the court regarding the merits of the case;
- (3) Act with respect and courtesy in the performance of the responsibilities of the guardian ad litem;
- (4) Attend any hearing relevant to the responsibilities of the guardian ad litem;
- (5) Upon becoming aware that the recommendations of the guardian ad litem differ from the wishes of the child, immediately notify the court in writing with notice to the parties or affected agencies. The court shall take action as it deems necessary.
- (6) If necessary, request timely court reviews and judicial intervention in writing with notice to the parties or affected agencies;
- (7) If the guardian ad litem is an attorney, file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure;
- (8) Be available to testify at any relevant hearing. Attorneys who are to serve as both guardian ad litem and attorney in any dual appointments shall comply with Rule 3.7 of the Rules of Professional Conduct.
- (9) If the guardian ad litem is not an attorney, avoid engaging in conduct that constitutes the unauthorized practice of law and be vigilant in performing the duties of the guardian ad litem;
- (10) If the guardian ad litem is not an attorney, request the court to appoint an attorney for the guardian ad litem to file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure. The court shall take action as it deems necessary.

**(B) Conflicts of interest**

(1) A guardian ad litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem shall avoid self-dealing or associations that might directly or indirectly benefit except from compensation for services as a guardian ad litem.

(2) Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem shall immediately notify the court in writing. The court shall take action as it deems necessary.

**(C) Satisfaction of training requirements**

A guardian ad litem shall meet the qualifications and satisfy all pre-service and continuing education requirements of Sup.R. 48.04 and 48.05 and any local court rules governing guardians ad litem. A guardian ad litem shall do both of the following:

(1) Meet the qualifications for guardians ad litem for each court and promptly advise the court of any grounds for disqualification or any issues affecting the ability to serve;

(2) Provide the court documentation indicating compliance with pre-service and continuing educational requirements so the court may maintain the files required pursuant to Sup.R. 48.07. The documentation shall include information detailing the date, location, contents, and credit hours received for any relevant education.

**(D) Duties of the Guardian ad Litem**

Unless specifically relieved by the court, the duties of a guardian ad litem shall include, but are not limited to, the following:

(1) Become informed about the facts of the case and contact all relevant persons;

(2) Observe the child with each parent, foster parent, guardian or physical custodian;

(3) Interview the child, if age and developmentally appropriate, where no parent, foster parent, guardian, or physical custodian is present;

(4) Visit the child at the residence or proposed residence of the child in accordance with any standards established by the court;

(5) Ascertain the wishes and concerns of the child;

- (6) Interview the parties, foster parents, guardians, physical custodian, and other significant individuals who may have relevant knowledge regarding the issues of the case. The guardian ad litem may require each individual to be interviewed without the presence of others. Upon request of the individual, the attorney for the individual may be present.
- (7) Interview relevant school personnel, medical and mental health providers, child protective services workers, and court personnel and obtain copies of relevant records;
- (8) Review pleadings and other relevant court documents in the case;
- (9) Obtain and review relevant criminal, civil, educational, mental health, medical, and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case;
- (10) Request that the court order psychological evaluations, mental health or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court;
- (11) Review any necessary information and interview other persons as necessary to make an informed recommendation regarding the best interest of the child.

**(E) Identification as guardian ad litem**

A guardian ad litem shall immediately identify himself or herself as a guardian ad litem when contacting individuals and inform the individuals about the role of the guardian ad litem, including as an attorney if a dual appointment, the scope of appointment, and that documents and information obtained by the guardian ad litem may become part of court proceedings.

**(F) Confidentiality**

A guardian ad litem shall make no disclosures about a case or investigation, except to the parties and their legal counsel, in reports to the court, or as necessary to perform the duties of a guardian ad litem, including as a mandated reporter. The guardian ad litem shall maintain the confidential nature of personal identifiers, as defined in Sup.R. 44, and address where there are allegations of domestic violence or risk to the safety of a party or child. Upon application, the court may order disclosure of or access to the information necessary to challenge the truth of the information received from a confidential source. The court may impose conditions necessary to protect witnesses from potential harm.

**(G) Timeliness**

A guardian ad litem shall perform responsibilities in a prompt and timely manner.

**(H) Record-keeping**

- (1) A guardian ad litem shall keep accurate records of the time spent, services rendered, and expenses incurred in each case while performing the responsibilities of a guardian ad litem.
- (2) In allocation of parental rights and responsibilities cases, a guardian ad litem shall provide a monthly statement of fees and expenses to all parties.
- (3) A guardian ad litem shall file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment upon order of the court or upon the conclusion of those responsibilities.