

GENERAL RESPONSIBILITIES OF GUARDIAN AD LITEM AND COURT VISITOR

Consistent with the responsibilities set forth in Titles 11, 13, and 26 of the Revised Code of Washington and other applicable statutes and rules of court, in every case in which a guardian ad litem or court visitor is appointed, the guardian ad litem or court visitor shall perform the responsibilities as set forth below. For purposes of these rules, a guardian ad litem is any person who is appointed by the court to represent the best interests of the child(ren); a respondent in a guardianship, conservatorship, or other protective arrangement proceeding; or an individual subject to a guardianship, conservatorship, or protective arrangement or to assist the court in determining the best interests of the child(ren); an individual subject to a guardianship, conservatorship, or other protective arrangement proceeding, or a respondent in a guardianship, conservatorship, or other protective arrangement proceeding, regardless of that person's title, except a person appointed pursuant to rule 6. For purposes of these rules, a court visitor is any person who is appointed by the court as a court visitor pursuant to chapter 11.130 RCW.

(a) Represent best interests. A guardian ad litem shall represent the best interests of the person for whom they are appointed. Representation of best interests may be inconsistent with the wishes of the person whose interest the guardian ad litem represents. The guardian ad litem shall not advocate on behalf of or advise any party so as to create in the mind of a reasonable person the appearance of representing that party as an attorney.

(b) Maintain independence. A guardian ad litem or court visitor shall maintain independence, objectivity, and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.

(c) Professional conduct. A guardian ad litem or court visitor shall maintain the ethical principles of the rules of conduct set forth in these rules and is subject to discipline under local rules established pursuant to rule 7 for violation.

(d) Remain qualified for the registry. Unless excepted by statute or court rule, a guardian ad litem or court visitor shall satisfy all training requirements and continuing education requirements developed for Titles 13 and 26 RCW guardians ad litem or court visitors by the administrator of the courts and for Title 11 RCW guardians ad litem or court visitors as required by statute and maintain qualifications to serve as guardian ad litem or court visitor in every county where the guardian ad litem or court visitor is listed on the registry for that county and in which the guardian ad litem or court visitor serves and shall promptly advise each such court of any grounds for disqualification or unavailability to serve.

(e) Avoid conflicts of interests. A guardian ad litem or court visitor shall avoid any actual or apparent conflict of interest or impropriety in the performance of guardian ad litem or court visitor responsibilities. A guardian ad litem or court visitor shall avoid self-dealing or association from which a guardian ad litem or court visitor might directly or indirectly benefit, other than for compensation as guardian ad litem or court visitor. A guardian ad litem or court visitor shall take action immediately to resolve any potential conflict or impropriety. A guardian ad litem or court visitor shall advise the court and the parties of action taken, resign from the matter, or seek court direction as may be necessary to resolve the conflict or impropriety. A guardian ad litem or court visitor shall not accept or maintain appointment if the performance of the duties of guardian ad litem or court visitor may be materially limited by the guardian ad litem's or court visitor's responsibilities to another client or a third person, or by the guardian ad litem's or court visitor's own interests.

(f) Treat parties with respect. A guardian ad litem or court visitor is an officer of the court and as such shall at all times treat the parties and third parties associated with the case with respect, courtesy, fairness, and good faith.

(g) Become informed about case. A guardian ad litem or court visitor shall make reasonable efforts to become informed about the facts of the case and to contact all parties. A guardian ad litem or court visitor shall examine material information and sources of information, taking into account the positions of the parties.

(h) Make requests for evaluations to court. A guardian ad litem or court visitor shall not require any evaluations or tests of the parties except as authorized by statute or court order issued following notice and opportunity to be heard.

(i) Timely inform the court of relevant information. A guardian ad litem or court visitor shall file a written report with the court and the parties as required by law or court order or in any event not later than 10 days prior to a hearing for which a report is required. The report shall be accompanied by a written list of documents considered or called to the attention of the guardian ad litem or court visitor and persons interviewed during the course of the investigation.

(j) Limit duties to those ordered by court. A guardian ad litem or court visitor shall comply with the court's instructions as set out in the order appointing a guardian ad litem or court visitor, and shall not provide or require services beyond the scope of the court's instruction unless by motion and on adequate notice to the parties, a guardian ad litem or court visitor obtains additional instruction, clarification or expansion of the scope of such appointment.

(k) Inform individuals about role in case. A guardian ad litem or court visitor shall identify themselves as a guardian ad litem or court visitor when contacting individuals in the course of a particular case and inform individuals contacted in a particular case about the role of a guardian ad litem or court visitor in the case at the earliest practicable time. A guardian ad litem or court visitor shall advise information sources that the documents and information obtained may become part of court proceedings.

(l) Appear at hearings. The guardian ad litem or court visitor shall be given notice of all hearings and proceedings. A guardian ad litem or court visitor shall appear at any hearing for which the duties of a guardian ad litem or court visitor or any issues substantially within a guardian ad litem's or court visitor's duties and scope of appointment are to be addressed. In Title 11 RCW proceedings, the guardian ad litem or court visitor shall appear at all hearings unless excused by court order.

(m) Ex parte communication. A guardian ad litem or court visitor shall not have ex parte communications concerning the case with the judge(s) and commissioner(s) involved in the matter except as permitted by court rule or by statute.

(n) Maintain privacy of parties. As an officer of the court, a guardian ad litem or court visitor shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem or court visitor. A guardian ad litem or court visitor shall maintain the confidential nature of identifiers or addresses where there are allegations of domestic violence or risk to a party's, person's, or child(ren)'s safety. The guardian ad litem or court visitor may recommend that the court seal the report or a portion of the report of the guardian ad litem or court visitor to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem or court visitor was appointed. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure or discovery that addresses the need to challenge the truth of the information received from the confidential source.

(o) Perform duties in timely manner. A guardian ad litem or court visitor shall perform responsibilities in a prompt and timely manner, and, if necessary, request timely court reviews and judicial intervention in writing with notice to parties or affected agencies.

(p) Maintain documentation. A guardian ad litem or court visitor shall maintain documentation to substantiate recommendations and conclusions and shall keep records of actions taken by the guardian ad litem or court visitor. Except as prohibited or protected by law, and consistent with rule 2(n), this information shall be made available for review on written request of a party or the court on request. Costs may be imposed for such requests.

(q) Keep records of time and expenses. A guardian ad litem or court visitor shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment. The court shall make provisions for fees and expenses pursuant to statute in the Order Appointing Guardian ad Litem or Court Visitor or in any subsequent order.

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