

UTAH

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>(1) As used in this part:</p> <p>(a) "Attorney guardian ad litem" means an attorney employed by the office.</p> <p>(b) "Director" means the director of the office.</p> <p>(c) "Office" means the Office of Guardian ad Litem, created in this section.</p> <p>(d) "Private attorney guardian ad litem" means an attorney designated by the office pursuant to Section 78A-2-705 who is not an employee of the office.</p> <p>(2) There is created the Office of Guardian ad Litem under the direct supervision of the Guardian ad Litem Oversight Committee.</p> <p>(3)(a) The Guardian ad Litem Oversight Committee shall appoint one person to serve full time as the guardian ad litem director for the state. The guardian ad litem director shall serve at the pleasure of the Guardian ad Litem Oversight Committee, in consultation with the state court administrator.</p> <p>(b) The director shall be an attorney licensed to practice law in this state and selected on the basis of:</p> <p>(i) professional ability;</p> <p>(ii) experience in abuse, neglect, and dependency proceedings;</p> <p>(iii) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and</p> <p>(iv) ability to develop training curricula and reliable methods for data collection and evaluation.</p> <p>(c) The director shall, prior to or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.</p> <p>(4) The guardian ad litem director shall:</p> <p>(a) establish policy and procedure for the management of a statewide guardian ad litem program;</p> <p>(b) manage the guardian ad litem program to assure that minors receive qualified guardian ad litem services in abuse, neglect, and dependency proceedings in accordance with state and federal law and policy;</p> <p>(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-6-902;</p> <p>(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards;</p> <p>(e) develop and update a guardian ad litem manual that includes:</p> <p>(i) best practices for an attorney guardian ad litem; and</p>
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- (ii) statutory and case law relating to an attorney guardian ad litem;
 - (f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;
 - (g) educate court personnel regarding the role and function of guardians ad litem;
 - (h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;
 - (i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (4)(h);
 - (j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel regarding:
 - (i) the development, policy, and management of the statewide guardian ad litem program;
 - (ii) the training and evaluation of attorney guardians ad litem and volunteers; and
 - (iii) the number of minors served by the office;
 - (k) hire, train, and supervise investigators; and
 - (l) administer the program of private attorney guardians ad litem established by Section [78A-2-705](#).
- (5) A contract of employment or independent contract described under Subsection (4)(c) shall provide that attorney guardians ad litem in the second, third, and fourth judicial districts devote their full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest they represent within the guardian ad litem program. [UT CODE 78A-6-901](#)

Intent:

- To establish the responsibilities of the Guardian ad Litem-Oversight Committee established in Rule 1-205.
- To establish the policy and procedures for the management of the guardian ad litem program.
- To establish responsibility for management of the program.
- To establish the policy and procedures for the selection of guardians ad litem.
- To establish the policy and procedures for payment for guardian ad litem services.
- To establish the policy and procedures for complaints regarding guardians ad litem and volunteers.

Applicability:

- This rule shall apply to the management of the guardian ad litem program.
- This rule does not affect the authority of the Utah State Bar to discipline a guardian ad litem.

-Statement of the Rule:

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

(1)(A) develop and monitor policies of the Office of Guardian ad Litem 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 in consultation with the State Court Administrator;
- (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 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 director. The Director shall have the qualifications provided by the Utah Code.
- (3) Responsibilities of the director. In addition to responsibilities under the Utah Code, the Director shall have the following responsibilities.
 - (3)(A) Manage the Office of Guardian ad Litem to ensure that minors who have been appointed a guardian ad litem by the court receive qualified guardian ad litem services.
 - (3)(B) Develop the budget appropriation request to the legislature for the guardian ad litem program.
 - (3)(C) Coordinate the appointments of guardians ad litem among different levels of courts.
 - (3)(D) Monitor the services of the guardians ad litem, staff and volunteers by regularly consulting with users and observers of guardian ad litem services, including judges, court executives and clerks, and by requiring the submission of appropriate written reports from the guardians ad litem.
 - (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.
 - (3)(F) Select guardians ad litem and staff for employment as provided in this rule. Select volunteers. Coordinate appointment of conflict counsel.
 - (3)(G) Supervise, evaluate, and discipline guardians ad litem and staff employed by the courts and volunteers. Supervise and evaluate the quality of service provided by guardians ad litem under contract with the court.
 - (3)(H) Monitor and report to the Committee guardian ad litem, staff and volunteer compliance with federal and state statutes, rules and case law.
 - (3)(I) Prepare and submit to the Committee in August an annual report regarding the development, policy, and management of the guardian ad litem program and the training and evaluation of guardians ad litem,

	<p>staff and volunteers. The Committee may amend the report prior to release to the Legislative Interim Human Services Committee.</p> <p>...</p> <p>Ut R J Admin Rule 4-906.</p>
<p>Funding Child Representation</p>	<p>6(a) Consistent with Subsection (6)(b), the juvenile court is responsible for:</p> <ul style="list-style-type: none"> (i) all costs resulting from the appointment of an attorney guardian ad litem; and (ii) the costs of volunteer, paralegal, and other staff appointment and training. <p>(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).</p> <p>(c)(i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the child's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:</p> <ul style="list-style-type: none"> (A) private attorney fees; (B) counseling for the child; (C) counseling for the parent, if mandated by the court or recommended by the Division of Child and Family Services; and (D) any other cost the court determines to be relevant. <p>(ii) The court may not assess those fees or costs against:</p> <ul style="list-style-type: none"> (A) a legal guardian, when that guardian is the state; or (B) consistent with Subsection (6)(d), a parent who is found to be impecunious. <p>(d) For purposes of Subsection (6)(c)(ii)(B), if a person claims to be impecunious, the court shall:</p> <ul style="list-style-type: none"> (i) require that person to submit an affidavit of impecuniosity as provided in Section 78A-2-302; and (ii) follow the procedures and make the determinations as provided in Section 78A-2-304. <p>(e) The child's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses. UT CODE 78A-6-902</p> <p>(7) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs. UT CODE 78A-2-703</p> <p>(1)(a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be</p>

	<p>represented by counsel at every stage of the proceedings</p> <p>(b) In any action initiated by a private party, the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense.</p> <p>(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect, and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the state, or a political subdivision of the state, subject to the provisions of this section.</p> <p>(d) In any action initiated by the state, a political subdivision of the state, or a private party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, of this chapter, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.... (1)(g). UT CODE 78A-6-1111</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child’s interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>(4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance with the requirements of that section, at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Part 5, Termination of Parental Rights Act. UT CODE 78A-6-317.</p> <p>1(a) The court:</p> <p>(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and</p> <p>(ii) shall consider the best interest of a minor, consistent with the provisions of Section 62A-4a-201, in determining whether to appoint a guardian ad litem.</p> <p>(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.</p> <p>2. An attorney guardian ad litem shall represent the best interest of each child who may become the subject of a petition alleging abuse, neglect, or dependency, from the earlier of the day that</p> <p>(a) the child is removed from the child's home by the division; or</p> <p>(b) the petition is filed</p>

	<p>...</p> <p>UT CODE 78A-6-902</p> <p>(6)(A) In cases where a guardian ad litem has a conflict of interest, the guardian ad litem shall declare the conflict and request that the court appoint a conflict guardian ad litem 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 be disqualified from further service in that case. Upon a finding that a conflict of interest exists, the court shall relieve the guardian ad litem from further duties in that case and appoint a conflict guardian ad litem.</p> <p>(6)(B) The Administrative Office of the Courts may contract with attorneys to provide conflict guardian ad litem services.</p> <p>(6)(C) If the conflict guardian ad litem is arranged on a case-by-case basis, the Court shall use the order form approved by the Council. The Order shall include a list of the duties of a guardian ad litem. The court shall distribute the Order as follows: original to the case file and one copy each to: the appointed conflict guardian ad litem, the guardian ad litem, all parties of record, the parents, guardians or custodians of the child(ren), the court executive and the Director. UT R J Admin Rule 4-906.</p> <p>(1) A district court may appoint an attorney guardian ad litem to represent the best interests of a minor in the following district court matters:</p> <p>(a) protective order proceedings ... UT CODE 78A-2-703</p>
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>(5)(a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:</p> <p>(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter... UT CODE 78A-6-317.</p> <p>8(a) An attorney guardian ad litem shall represent the best interest of a minor.</p> <p>(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.</p> <p>(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.</p> <p>(d) The guardian ad litem shall disclose the wishes of the child unless the child:</p> <p>(i) instructs the guardian ad litem to not disclose the child's wishes; or</p>

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(9) An attorney guardian ad litem shall be provided access to all Division of Child and Family Services records regarding the minor at issue and the minor's family.

10(a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what constitutes the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's Division of Child and Family Services caseworker, but may not:

(i) rely exclusively on the conclusions and findings of the Division of Child and Family Services; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a Division of Child and Family Services caseworker.

(c) A guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a Division of Child and Family Services caseworker is present for a purpose other than the guardian ad litem's visit with the client.

11(a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the guardian ad litem makes a recommendation regarding the best interest of the child, the court shall require the guardian ad litem to disclose the factors that form the basis of the recommendation.

12(a) Except as provided in Subsection (12)(b), all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise. This subsection supersedes [Title 63G, Chapter 2, Government Records Access and Management Act](#).

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under [Title 36, Chapter 14, Legislative Subpoena Powers](#); and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), records released in accordance with Subsection (12)(b) shall be maintained as confidential by the Legislature.

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in its audits and reports to the Legislature.

(d)(i) Subsection (12)(b) constitutes an exception to Rules of Professional Conduct, Rule 1.6, as provided

by Rule 1.6(b)(4), because of:

- (A) the unique role of an attorney guardian ad litem described in Subsection (8); and
- (B) the state's role and responsibility:
 - (I) to provide a guardian ad litem program; and
 - (II) as *parens patriae*, to protect minors.
- (ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

[UT CODE 78A-6-902](#)

(3) The director shall ensure that each attorney guardian ad litem employed by the office

- (a) represents the best interest of each client of the office in all venues, including:
 - (i) court proceedings; and
 - meetings to develop, review, or modify the child and family plan with the Division of Child and Family Services in accordance with Section [62A-4a-205](#);
 - (ii) meetings to develop, review, or modify the child and family plan with the Division of Child and Family Services in accordance with Section [62A-4a-205](#);
 - ...
 - (c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;
 - (d) (i) personally meets with the minor, unless:
 - (A) the minor is outside of the state; or
 - (B) meeting with the minor would be detrimental to the minor;
 - (ii) personally interviews the minor, unless:
 - (A) the minor is not old enough to communicate;
 - (B) the minor lacks the capacity to participate in a meaningful interview; or
 - (C) the interview would be detrimental to the minor; and
 - (iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:
 - (A) to the extent possible, determines the minor's goals and concerns regarding placement; and
 - (B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement
 - ...
 - (g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness

	<p>and appropriateness of efforts made by the Division of Child and Family Services to:</p> <ul style="list-style-type: none"> (i) maintain a minor in the minor's home; or (ii) reunify a child with the child's parent; (h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of: <ul style="list-style-type: none"> (i) the status of the minor's case; (ii) all court and administrative proceedings; (iii) discussions with, and proposals made by, other parties; (iv) court action; and (v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor... <p>UT CODE 78A-6-902</p> <p>(4)(a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.</p> <p>(b) All volunteers, paralegals, and staff utilized pursuant to this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association. UT CODE 78A-6-902</p> <p>The same duties also apply when private GALs are appointed. <i>See</i> UT CODE 78A-2-705</p>
<p>3. In Court – Active Participation in Hearings: Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed</p>	<p>(1) A child who is the subject of a juvenile court hearing, any person entitled to notice pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative providing care for the child, are:</p> <ul style="list-style-type: none"> (a) entitled to notice of, and to be present at, each hearing and proceeding held under this part, including administrative reviews; and (b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a). <p>(2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child... UT CODE 78A-6-317.</p> <p>(3) The director shall ensure that each attorney guardian ad litem employed by the office</p> <ul style="list-style-type: none"> (a) represents the best interest of each client of the office in all venues, including:

<p>areas, and undertake certain obligations post-disposition.</p>	<p>(i) court proceedings ... UT CODE 78A-6-902</p> <p>(1) For purposes of this section, "postadjudication hearing" means: (a) a disposition hearing; (b) a permanency hearing; or (c) a review hearing, except a drug court review hearing. (2) A child shall be present at any postadjudication hearing in a case relating to the abuse, neglect, or dependency of the child, unless the court determines that (a) requiring the child to be present at the postadjudication hearing would be detrimental to the child, or impractical; or (b) the child is not sufficiently mature to articulate the child's wishes in relation to the hearing. (3) A court may, in the court's discretion, order that a child described in Subsection (2) be present at a hearing that is not a postadjudication hearing. (4) (a) Except as provided in Subsection (4)(b), at any hearing in a case relating to the abuse, neglect, or dependency of a child, when the child is present at the hearing, the court shall: (i) ask the child whether the child desires the opportunity to address the court or testify; and (ii) if the child desires an opportunity to address the court or testify, allow the child to address the court or testify. (b) Subsection (4)(a) does not apply if the court determines that: (i) it would be detrimental to the child to comply with Subsection (4)(a); or (ii) the child is not sufficiently mature to articulate the child's wishes in relation to the hearing. (c) Subject to applicable court rules, the court may allow the child to address the court in camera. (5) Nothing in this section prohibits a child from being present at a hearing that the child is not required to be at by this section or by court order, unless the court orders otherwise. UT CODE 78A-6-305</p> <p>The same duties also apply when private GALs are appointed. <i>See</i> UT CODE 78A-2-705</p>
<p>4. Post-Hearing: Review courts order, communicate</p>	<p>(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to: (i) determine whether services ordered by the court:</p>

<p>order to child, and monitor implementation of orders</p>	<p>(A) are actually provided; and (B) are provided in a timely manner; and (ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services. UT CODE 78A-6-902</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>(3) The director shall ensure that each attorney guardian ad litem employed by the office: ... (f) participates in all appeals, unless excused by order of the court ... UT CODE 78A-6-902 (a) Filing. Any appellee, including the Guardian ad Litem, may file a response to the petition on appeal... UT CODE R. APP. PROC. 56.</p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p>(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court. UT CODE 78A-6-902 (4) A court shall issue an order terminating the appointment of an attorney guardian ad litem made under this section, if: (a) the court determines that the allegations of abuse or neglect are unfounded; (b) after receiving input from the attorney guardian ad litem, the court determines that the children are no longer at risk of abuse or neglect; or (c) there has been no activity in the case for which the attorney guardian ad litem is appointed for a period of six consecutive months. UT CODE 78A-2-703 The same duties also apply when private GALs are appointed. <i>See</i> UT CODE 78A-2-705</p>
<p>7. General Representation Rules: Administrative structure is clear for appointment, support and</p>	<p>(1) As used in this part: (a) "Attorney guardian ad litem" means an attorney employed by the office. (b) "Director" means the director of the office. (c) "Office" means the Office of Guardian ad Litem, created in this section. (d) "Private attorney guardian ad litem" means an attorney designated by the office pursuant to Section 78A-2-705 who is not an employee of the office. (2) There is created the Office of Guardian ad Litem under the direct supervision of the Guardian ad Litem</p>

<p>accountability of the CR. The child's representative is independent from the court</p>	<p>Oversight Committee.</p> <p>(3)(a) The Guardian ad Litem Oversight Committee shall appoint one person to serve full time as the guardian ad litem director for the state. The guardian ad litem director shall serve at the pleasure of the Guardian ad Litem Oversight Committee, in consultation with the state court administrator.</p> <p>(b) The director shall be an attorney licensed to practice law in this state and selected on the basis of:</p> <ul style="list-style-type: none"> (i) professional ability; (ii) experience in abuse, neglect, and dependency proceedings; (iii) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and (iv) ability to develop training curricula and reliable methods for data collection and evaluation. <p>(c) The director shall, prior to or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.</p> <p>(4) The guardian ad litem director shall:</p> <ul style="list-style-type: none"> (a) establish policy and procedure for the management of a statewide guardian ad litem program; (b) manage the guardian ad litem program to assure that minors receive qualified guardian ad litem services in abuse, neglect, and dependency proceedings in accordance with state and federal law and policy; (c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-6-902; (d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards; (e) develop and update a guardian ad litem manual that includes: <ul style="list-style-type: none"> (i) best practices for an attorney guardian ad litem; and (ii) statutory and case law relating to an attorney guardian ad litem; (f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers; (g) educate court personnel regarding the role and function of guardians ad litem; (h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training; (i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (4)(h); (j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child
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Welfare Legislative Oversight Panel regarding:

- (i) the development, policy, and management of the statewide guardian ad litem program;
- (ii) the training and evaluation of attorney guardians ad litem and volunteers; and
- (iii) the number of minors served by the office;
- (k) hire, train, and supervise investigators; and

(l) administer the program of private attorney guardians ad litem established by Section [78A-2-705](#).

(5) A contract of employment or independent contract described under Subsection (4)(c) shall provide that attorney guardians ad litem in the second, third, and fourth judicial districts devote their full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest they represent within the guardian ad litem program. [UT CODE 78A-6-901](#)

Intent:

- To establish the responsibilities of the Guardian ad Litem-Oversight Committee established in Rule 1-205.
- To establish the policy and procedures for the management of the guardian ad litem program.
- To establish responsibility for management of the program.
- To establish the policy and procedures for the selection of guardians ad litem.
- To establish the policy and procedures for payment for guardian ad litem services.
- To establish the policy and procedures for complaints regarding guardians ad litem and volunteers.

Applicability:

- This rule shall apply to the management of the guardian ad litem program.
- This rule does not affect the authority of the Utah State Bar to discipline a guardian ad litem.

-Statement of the Rule:

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

(1)(A) develop and monitor policies of the Office of Guardian ad Litem 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 in consultation with the State Court Administrator;

(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 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 director. The Director shall have the qualifications provided by the Utah Code.
- (3) Responsibilities of the director. In addition to responsibilities under the Utah Code, the Director shall have the following responsibilities.
- (3)(A) Manage the Office of Guardian ad Litem to ensure that minors who have been appointed a guardian ad litem by the court receive qualified guardian ad litem services.
- (3)(B) Develop the budget appropriation request to the legislature for the guardian ad litem program.
- (3)(C) Coordinate the appointments of guardians ad litem among different levels of courts.
- (3)(D) Monitor the services of the guardians ad litem, staff and volunteers by regularly consulting with users and observers of guardian ad litem services, including judges, court executives and clerks, and by requiring the submission of appropriate written reports from the guardians ad litem.
- (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.
- (3)(F) Select guardians ad litem and staff for employment as provided in this rule. Select volunteers. Coordinate appointment of conflict counsel.
- (3)(G) Supervise, evaluate, and discipline guardians ad litem and staff employed by the courts and volunteers. Supervise and evaluate the quality of service provided by guardians ad litem under contract with the court.
- (3)(H) Monitor and report to the Committee guardian ad litem, staff and volunteer compliance with federal and state statutes, rules and case law.
- (3)(I) Prepare and submit to the Committee in August an annual report regarding the development, policy, and management of the guardian ad litem program and the training and evaluation of guardians ad litem, staff and volunteers. The Committee may amend the report prior to release to the Legislative Interim Human Services Committee.
- ...
- (9) Complaints and appeals.
- (9)(A)(i) Any person may file with the chair of the Committee 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 the Director.
- (9)(A)(ii) If a complaint regarding the Director or an administrative policy or procedure is received in the

	<p>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.</p> <p>(9)(B) Any person may file with the Director a complaint regarding a guardian ad litem employed by the Office of Guardian ad Litem, private attorney guardian ad litem, or volunteer, as defined by UCA 78A-6-902(4)(a). The decision of the Director regarding the complaint is final and not subject to appeal.</p> <p>(9)(C) If a guardian ad litem 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.</p> <p>(9)(D) The failure of the Director to satisfactorily resolve a complaint against a guardian ad litem, private attorney guardian ad litem or volunteer is not grounds for a complaint against the Director.</p> <p>(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.</p> <p>(9)(F)(i) A complaint shall be in writing, stating the name and contact information of the complainant, the name of the child or children involved, the nature of the complaint and the facts upon which the complaint is based.</p> <p>(9)(F)(ii) In resolving a complaint, the Director or the Committee shall conduct such investigation as 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.</p> <p>(9)(F)(iii) 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, the decision may include removal of the private guardian ad litem from the list of private guardians ad litem and the conditions for reinstatement.</p> <p>(9)(G) This subsection does not apply to conflict guardians ad litem. Ut R J Admin Rule 4-906.</p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new</p>	<p>(3) The director shall ensure that each attorney guardian ad litem employed by the office: ... (b) prior to representing any minor before the court, be trained in: (i) applicable statutory, regulatory, and case law; and (ii) nationally recognized standards for an attorney guardian ad litem; ...</p>

attorneys provided senior lawyer mentorship.

(4)(a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with [Title 67, Chapter 20, Volunteer Government Workers Act](#), trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.

(b) All volunteers, paralegals, and staff utilized pursuant to this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association. [UT CODE 78A-6-902](#)

(2) An attorney guardian ad litem shall be trained on and implement into practice:

(a) the parental rights and child and family protection principles provided in Section [62A-4a-201](#);

(b) the fundamental liberties of parents and the public policy of the state to support family unification to the fullest extent possible;

(c) the constitutionally protected rights of parents, in cases where the state is a party;

(d) the use of a least restrictive means analysis regarding state claims of a compelling child welfare interest;

(e) the priority of maintaining a child safely in the child's home, whenever possible;

(f) the importance of:

(i) kinship placement, in the event the child is removed from the home; and

(ii) keeping sibling groups together, whenever practicable and in the best interests of the children;

(g) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;

(h) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(i) the use of an individualized permanency plan, only as a last resort. [UT CODE 78A-2-704](#)

(11) The private attorney guardian ad litem:

(a) shall be certified by the director of the office as meeting the minimum qualifications for appointment... [UT CODE 78A-2-705](#)

<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>(6)(a) Consistent with Subsection (6)(b), the juvenile court is responsible for:</p> <ul style="list-style-type: none"> (i) all costs resulting from the appointment of an attorney guardian ad litem; and (ii) the costs of volunteer, paralegal, and other staff appointment and training. <p>(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).</p> <p>(c)(i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the child's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:</p> <ul style="list-style-type: none"> (A) private attorney fees; (B) counseling for the child; (C) counseling for the parent, if mandated by the court or recommended by the Division of Child and Family Services; and (D) any other cost the court determines to be relevant. <p>(ii) The court may not assess those fees or costs against:</p> <ul style="list-style-type: none"> (A) a legal guardian, when that guardian is the state; or (B) consistent with Subsection (6)(d), a parent who is found to be impecunious. <p>(d) For purposes of Subsection (6)(c)(ii)(B), if a person claims to be impecunious, the court shall:</p> <ul style="list-style-type: none"> (i) require that person to submit an affidavit of impecuniosity as provided in Section 78A-2-302; and (ii) follow the procedures and make the determinations as provided in Section 78A-2-304. <p>(e) The child's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses. UT CODE 78A-6-902</p> <p>(7) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs. UT CODE 78A-2-703</p> <p>(1)(a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be represented by counsel at every stage of the proceedings</p> <p>(b) In any action initiated by a private party, the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense.</p> <p>(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect,</p>
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and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the state, or a political subdivision of the state, subject to the provisions of this section.

(d) In any action initiated by the state, a political subdivision of the state, or a private party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, of this chapter, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

(e) In any action initiated by the state or a political subdivision of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or against a minor under Section 78A-6-1101, the parents or legal guardian and the minor shall be informed that the minor has the right to be represented by counsel at every stage of the proceedings.

(i) In cases where a minor is facing a felony level offense, the court shall appoint counsel, who shall appear until counsel is retained on the minor's behalf. The minor may not waive counsel unless the minor has had a meaningful opportunity to consult with a defense attorney. The court shall make findings on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary and the minor understands the consequences of waiving the right to counsel.

(ii) In all other situations the right to counsel may not be waived by a minor unless there has been a finding on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the minor understands the consequences of waiving the right to counsel.

(iii) If the minor is found to be indigent, counsel shall be appointed by the court to represent the minor in all proceedings directly related to the petition or motion filed by the state or a political subdivision of the state, subject to the provisions of this section.

(f) Indigency of a parent, legal guardian, or minor shall be determined in accordance with the process and procedure defined in Section 77-32-202. The court shall take into account the income and financial ability of the parent or legal guardian to retain counsel in determining the indigency of the minor.

(g) The cost of appointed counsel for a party found to be indigent, including the cost of counsel and expense of the first appeal, shall be paid by the county in which the trial court proceedings are held. Counties may levy and collect taxes for these purposes.

(2) Counsel appointed by the court may not provide representation as court-appointed counsel for a parent or legal guardian in any action initiated by, or in any proceeding to modify court orders in a proceeding

	<p>initiated by, a private party.</p> <p>(3) If the county responsible to provide legal counsel for an indigent under Subsection (1)(g) has arranged by contract to provide services, the court shall appoint the contracting attorney as legal counsel to represent that indigent.</p> <p>(4) The court may order a parent or legal guardian for whom counsel is appointed, and the parents or legal guardian of any minor for whom counsel is appointed, to reimburse the county for the cost of appointed counsel.</p> <p>(5) The state, or an agency of the state, may not be ordered to reimburse the county for expenses incurred under Subsection (1)(g). UT CODE 78A-6-1111</p>
<p>10. Caseload Levels: Caseloads are of a manageable size</p>	<p>The GAL Oversight Committee shall monitor the Office of the GAL's caseload and recommend to the Judicial Council adequate staffing of GALs and staff. Ut R J Admin Rule 4-906.</p>