

NORTH DAKOTA

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>Lay Guardian Ad Litem Program: The court will notify, by phone, e-mail or fax, project staff of the need for a Guardian ad Litem (GAL) for a specific case. The court will provide identifying information including name(s) and age(s) of the child(ren) and parents names and addresses, reason for request for action, location of the child(ren) and date, time and location of the upcoming hearing. The project staff will contact a GAL in an effort to assign the case. The GAL will accept or reject a request for appointment. The staff will assign a GAL and arrange for a GAL to appear at the upcoming hearing. Project staff will notify the court of the assignment. Staff will log the appointment, as well as the date, time and type of hearing in the appropriate management information system (case tracking form) ... The court scheduling secretary will contact the staff of the Lay Guardian ad Litem Program and request a Guardian ad Litem be assigned to a specific deprivation case. The court will provide the following information over the phone: name(s), age(s), primary concern, and date/time of hearing. The Director of the Program will assign the case and notify the court of the assignment. https://www.ndguardian.net/about.html</p> <p>For Attorney-GALs, the North Dakota Court Administrator maintains a roster of eligible GALs organized by judicial districts, which can be found at: http://www.ndcourts.gov/court/custodyinvestigatorroster/roster.htm (current as of 4/13/15)</p>
<p>Funding Child Representation</p>	<p>The commission on legal counsel for indigents shall pay reasonable compensation for services and related expenses of counsel provided at public expense for a party and the supreme court shall pay reasonable compensation for a guardian ad litem. Cent. Code 27-20-49(2)</p> <p>Lay Guardian ad Litem Program: The Guardian's hourly wage will be determined by the Director and is based on past experience and/or current GAL experience. Cases are limited to 15 hours per case unless pre-authorized by the Director. A timesheet must be completed and submitted to the Director on a monthly basis. https://www.ndguardian.net/about.html</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child's interests,</p>	<p>The court, in every case involving an abused or neglected child which results in a judicial proceeding, shall appoint a guardian ad litem for the child in those proceedings. Cent. Code 50-25.1-08.</p> <p>The court at any stage of a proceeding under this chapter, on application of a party or on its own motion, shall appoint a guardian ad litem for a child who is a party to the proceeding if the child has no parent, guardian, or custodian appearing on the child's behalf or their interests conflict with the child's or in any other case in which the interests of the child require a guardian. A party to the proceeding or that party's employee or representative may not be appointed. A guardian ad litem appointed under this section is</p>

<p>undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>immune from civil liability for damages for any act or omission arising out of that individual's duties and responsibilities as a guardian ad litem, unless the act or omission constitutes gross or willful negligence or gross or willful misconduct. Cent. Code 27-20-48.</p> <p>If, at any time in the proceeding, the court determines that the interests of the child are, or may be, inadequately represented, it may appoint an attorney to represent the child, giving consideration to the preference of the child if the child is fourteen or more years of age. Cent. Code 27-20-48.4(4)</p> <p>If appointed, a guardian ad litem shall serve as an advocate of the child's best interests. Cent. Code 14-09-06.4</p> <p>(a) Qualification. To qualify as a guardian ad litem under N.D.C.C. § 14-09-06.4, a person must be an attorney licensed in the state of North Dakota.</p> <p>...</p> <p>(c) Criteria for Appointment. A guardian ad litem must be appointed if the court finds an appointment is necessary to protect the best interests of the child involved. N.D.R.Ct. 8.7</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>Juvenile court files and records are open to inspection only by ... The parties to the proceeding or their counsel or the guardian ad litem of any party. Cent. Code 27-20-51(1)</p> <p>(b) A lay guardian ad litem must:</p> <p>(1) advocate for the best interests of the child;</p> <p>(2) exercise independent judgment, gather information, participate in negotiations, and monitor the case, including:</p> <p>(A) reviewing relevant documents; including social services, psychological, psychiatric, medical, therapy, and education records;</p> <p>(B) meeting with and observing the child in the home setting or placement;</p> <p>(C) interviewing parents, siblings, caregivers, and other interested parties with relevant information to the case.</p> <p>(3) complete work in a professional manner by participating in meetings impacting the life of a child, including attending all court proceedings related to the deprivation matter, child-family team meetings, settlement negotiations, appropriate school meetings, and other activities as may be directed by the court in the child's best interest for pre- or post-adjudication matters.</p> <p>(4) obtain releases of information as required and observe all statutes, rules and regulations, regarding</p>

confidentiality. A lay guardian ad litem must not disclose or participate in the disclosure of information to any person, except as necessary to perform the guardian ad litem duties specifically provided by law.

(5) prepare a written report regarding the child's best interest, including conclusions with specific recommendations as appropriate to the facts of the case -- psychological, psychiatric, parenting and chemical dependency evaluations or services or treatment deemed necessary -- this report must be submitted to the juvenile court as directed by the court, and upon receipt copies must be provided to all parties by the juvenile court.

(6) treat all individuals with dignity, respect and sensitivity to religious background, racial or ethnic heritage, cultural, gender/orientation and socio-economic diversity.

(7) comply with all state laws regarding the reporting of child abuse or neglect.

[ND R. Ct. Juv. P. 17.](#)

The lay guardian ad litem may not communicate with a judicial officer, without notice to all parties, concerning a case for which the person is serving as a lay guardian ad litem except that the lay guardian ad litem may communicate with a judicial officer about such matters as scheduling, emergencies, or purely administrative matters that do not deal with substantive matters or issues involved in the case. [ND R. Ct. Juv. P. Appendix A.](#)

(1) A guardian ad litem shall advocate the best interests of the child as to legal custody, physical placement, visitation, and support. A guardian ad litem shall function independently, in the same manner as an attorney for a party to the action, and, consistent with the Rules of Professional Conduct, shall consider, but not be bound by, the wishes of the child or others as to the best interests of the child.

(2) After appointment, a guardian ad litem shall:

(A) work with a custody investigator, if appointed, to coordinate investigation activities and avoid duplicating services;

(B) interview and observe the child to ascertain the facts relevant to custody, the child's wishes, the need for independent evaluation, and the need for and appropriateness of interim judicial relief;

(C) advise the child and the child's parents of the role and responsibilities of the guardian ad litem;

(D) interview potential witnesses, lay and expert, with relevant knowledge of the child or parties; and

(E) participate in meetings impacting the life of the child, including permanency planning meetings and other activities as may be directed by the court.

(3) A guardian ad litem may apply for a court order to protect the child, to obtain temporary relief, to determine custody, or to determine visitation.

	<p>(4) A guardian ad litem shall participate whenever any party requests an interim court order which may affect the child.</p> <p>(5) A guardian ad litem may request an independent court-ordered evaluation or study, including a custody investigation.</p> <p>(6) A guardian ad litem shall participate in all pretrial procedures and negotiations and endeavor to resolve the case without the need for a trial.</p> <p>(7) A guardian ad litem shall observe all statutes, rules, and regulations concerning confidentiality. A guardian ad litem may not disclose or participate in the disclosure of information to any person who is not a party to the case, except as necessary to perform the guardian ad litem duties or as may be specifically provided by law. N.D.R.Ct. 8.7</p> <p>(d) Guardian ad Litem. If a guardian ad litem has been appointed for a child, notice under Rule 15(a), (b), and (c) must be provided to the guardian ad litem. ND R. Ct. Juv. P. 15</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 areas, and undertake certain obligations post-disposition.</p>	<p>(1) Court Proceedings. A lay guardian ad litem must attend all court proceedings unless excused by the court and must testify when requested. Except as allowed under Rule 5(d), a lay guardian ad litem may not call a witness, question a witness, file a motion, or act as a legal advocate.</p> <p>(2) Interim Report. A lay guardian ad litem may submit an interim report and request a case status review. The interim report must be served on each party, who may serve and file a response within ten days after service of the report. The court may consider the interim report and any response without oral argument or evidentiary hearing. If the court finds grounds for a case status review, the court must set a hearing. ND R. Ct. Juv. P. 17(c)</p> <p>Court Proceedings. A guardian ad litem may present a case, cross-examine a witness, deliver a summation, prepare a memorandum of law, file a motion, and file or participate in an appeal on issues involving the best interests of the child. N.D.R.Ct. 8.7(e)</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>(a) Mandatory Vacation of Order. An order of the court must be set aside if:</p> <p>(1) it appears it was obtained by fraud or mistake;</p> <p>(2) the court lacked jurisdiction over a necessary party or of the subject matter; or</p> <p>(3) newly discovered evidence so requires.</p> <p>(b) Discretionary Modification.</p> <p>(1) Except an order terminating parental rights, or an order of dismissal, an order of the court may also be</p>

	<p>changed, modified, or vacated on the ground that changed circumstances so require in the best interest of the child.</p> <p>(2) An order terminating parental rights and the parent and child relationship may be vacated by the court on motion of the parent if the child is not placed for adoption and the person having custody of the child consents in writing to the vacation of the decree.</p> <p>(3) An order granting probation to a child found to be delinquent or unruly may be revoked on the ground that the conditions of probation have not been observed.</p> <p>(c) Motion for Relief. Any party to the proceeding, the director of juvenile court or other person having supervision or legal custody of or an interest in the child may move the court for the relief provided in this rule. The motion must set forth in concise language the grounds on which relief is requested.</p> <p>(d) Notice. Reasonable notice and an opportunity to be heard must be given to the child and the parent, guardian, or other custodian before the court may extend the duration of:</p> <p>(1) an order committing a delinquent or unruly child to the division of juvenile services;</p> <p>(2) an order placing a child in foster care; or</p> <p>(3) an order placing a child in detention or shelter care.</p> <p>(e) Hearing. After the motion is filed, the court must set a hearing and cause notice to be served on the parties. After the hearing, which may be informal, the court may deny or grant relief as the evidence warrants. ND R. Ct. Juv. P. 16</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p><i>No explicit legal authority or requirements</i></p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p>The lay guardian ad litem may not withdraw services unless there is good cause. Good cause may include conflict of interest or inability to provide competent, professional services. If the lay guardian ad litem must withdraw services for good cause, the lay guardian ad litem should try to do so in such a manner that does not adversely affect the best interests of the child. ND R. Ct. Juv. P. Appendix A.</p> <p>Lay Guardian ad Litem Program: Guardian ad Litem may request to be removed from a case because of a conflict of interest or other circumstance that would prevent the GAL from performing her/his role. The GAL should notify the Director of the concern or situation and request the case is transferred to another</p>

	<p>GAL. The GAL and Director would develop an appropriate plan to transfer the case. A Guardian ad Litem may be removed from a case by the Director, juvenile supervisor or judge for conflict of interest, inability to perform, or poor performance as GAL. In such circumstances the Director should be notified of the concern and request for removal, the Director will notify the GAL and transfer the case to another GAL. https://www.ndguardian.net/about.html</p>
<p>7. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child’s representative is independent from the court</p>	<p>A lay guardian ad litem shall preserve professional independence in the discharge of the guardian's responsibilities. A lay guardian ad litem must act in accordance with the law, free from all other influence, rendering services based on the guardian's best knowledge. A lay guardian ad litem should avoid any impairment of independence and must not permit professional standards to be compromised by external pressure. ND R. Ct. Juv. P. Appendix A.</p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>The state court administrator must provide for regular training programs to satisfy the qualification requirements under Rule 17(a)(2) and (3). The state court administrator must provide for the development and maintenance of a lay guardian ad litem manual to serve as a resource for those providing services under Rule 17 and as a basis for lay guardian ad litem training programs. ND R. Ct. Juv. P. 17.</p> <p>A lay guardian ad litem must complete all necessary training requirements according to Rule 17 of the North Dakota Rules of Juvenile Procedure, including engaging in regular training programs. ND R. Ct. Juv. P. Appendix A.</p> <p>(b) Training Requirements. To be eligible for appointment as a guardian ad litem, an attorney must have completed 18 hours of guardian ad litem training. To remain eligible to be appointed as guardian ad litem, an individual shall complete an additional 18 hours of guardian ad litem-related training every 3 years. N.D.R.Ct. 8.7</p> <p>[LAY] GALs must complete an initial 18 hours training course provided by the Guardian ad Litem staff. 18 CEU's are required every three years. Monthly case consultation meetings can be counted toward half of</p>

	<p>the required CEU's. A form will be used for GALs to track continuing education hours. Guardians will submit the form to the Director by December 31st of each year. Continuing education will be provided to the GALs. https://www.ndguardian.net/about.html</p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>The lay guardian ad litem must charge a reasonable fee for the guardian's services commensurate with experience and ability. The lay guardian ad litem must provide an accounting for time on each case and must make fees known to the parties in advance of providing services. ND R. Ct. Juv. P. Appendix A.</p> <p>The court may direct either or both parties to pay the guardian ad litem or investigator fee established by the court. If neither party is able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the county where the child resided at the time the action was commenced. The court may direct either or both parties to reimburse the county, in whole or in part, for such payment. Cent. Code 14-09-06.4</p>
<p>10. Caseload Levels: Caseloads are of a manageable size</p>	<p>No explicit legal authority or requirements</p>