

ALASKA

<p>Structure, organization, and delivery of Child Representation State-by-state, county-by-county, etc.</p>	<p>Briefly: the Office of Public Advocacy is in charge of providing legal representation to children throughout the state.</p> <p>The office of public advocacy shall...provide guardian ad litem services to children in child protection actions. ALASKA STAT. ANN. § 44.21.410(a)(3), (5)-(6).</p> <p>The Alaska Legislature founded the Office of Public Advocacy in 1984. One of OPA's primary functions is to serve as guardian ad litem for children in court cases. Before OPA was founded the court system provided guardian ad litem services to children in the state. OPA has staff offices in Anchorage, Juneau, and Fairbanks and a satellite office in Palmer (supervised by the Anchorage office). In areas of the state where there are not staff offices, OPA retains contract GALs to represent children. Office of Public Advocacy, About Us.</p> <p>If the Office of Public Advocacy (OPA) is appointed, OPA shall, in accordance with the qualifications set forth in subsection (c) of this rule, designate a specific person to serve as the guardian ad litem for the child. If OPA designates an OPA employee to be the GAL, the GAL for the child is deemed to be OPA. If OPA designates an independent contractor, or another person who is not employed by OPA, to be the GAL, the GAL for the child is deemed to be that designated person. <i>In all cases in which the GAL is to be appointed at public expense, the court must appoint the Office of Public Advocacy, which must designate a specific person to serve as the GAL.</i> Alaska CINA R. 11(a)(2) and Commentary.</p> <p>Because the Office of Public Advocacy has staff GALs in only four locations in the state, the agency retains contractors to provide local representation for children and adults in other areas of the state. In addition, staff GALs in regional offices at times have legal conflicts and a GAL outside of the office is required to provide conflict free representation. Contract GALs are paid by OPA as part of a pre-arranged contract or, in some areas, on a case-by-case basis (sometimes called "court-appointed" work). All contractors are screened, retained, and trained by OPA before being assigned cases. Contractors are not employees of the agency, are not supervised by OPA staff, and are not provided benefits or office space. OPA does provide oversight, provide legal advice and representation if needed, and receive and respond to complaints about contractors. OPA divides the state into three regional areas for the selection process for contract GALs. Office of Public Advocacy, Contract Guardians ad Litem.</p> <p>Anchorage, the Kenai Peninsula, Kodiak, Bethel, Dillingham, Cordova, Valdez, Glen Allen, Nome and Kotzebue areas are handled by the Anchorage Regional office. The southeast Alaska region is handled by the Juneau office and the Barrow and Fairbanks area is handled from the Fairbanks office. Every two years, OPA requests bids for contracts for both attorneys and GALs. If a contract GAL is needed in a particular area outside of the normal RFP cycle, the regional office will recruit, screen, and retain a contract GAL. Office of Public Advocacy, Contract Guardians ad Litem.</p> <p>Contract and court-appointed GALs are independent contractors with OPA, and are expected to act as independent professionals and to exercise their independent judgment. Contract and court-appointed GALs are also expected to have their own offices, with their own supplies and administrative staff. By virtue of the independent contractor status, OPA does not have direct supervisory responsibility or authority over the GALs. Rather, OPA has limited oversight responsibility and</p>
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	<p>authority over the GALs. Office of Public Advocacy, Guidelines for Contract and Court-Appointed Guardians ad Litem in CINA Proceedings, § 1.</p>
<p>Funding Child Representation</p>	<p>The Office of Public Advocacy (OPA) is part of the state Department of Administration, but it operates independently of other state agencies. It provides guardians ad litem for children....In CINA cases, OPA contracts with private guardians ad litem to represent the best interests of children and contracts with private attorneys to provide independent representation for parents. Guardian ad litem and attorney services are provided statewide. A Guide to Alaska Children in Need of Aid Cases, Alaska Judicial Council 1, 11 (November 1999), http://www.ajc.state.ak.us/reports/cinaguide.pdf.</p> <p>Fees and expenses for attorney and/or GAL services are paid by the court handling the case. Child Welfare Information Gateway, Representation of Children in Abuse and Neglect Proceedings, Children’s Bureau 1, 2, https://www.childwelfare.gov/pubPDFs/represent.pdf.</p> <p>If one or both of the parties is indigent or temporarily without funds the court shall appoint the office of public advocacy. The court shall notify the office of public advocacy if the office is required to provide guardian ad litem services. The court shall enter an order for costs, fees, and disbursements in favor of the state and may further order that other services be provided for the protection of a minor or other child. ALASKA STAT. ANN. § 25.24.310(c).</p> <p><i>(5) Compensation.</i></p> <p>(A) All claims for compensation must be submitted monthly or at least quarterly on forms provided by the court. The final claim for compensation must be submitted within 30 days following the disposition of a case. All claims for compensation are submitted to Fiscal Operations of the Alaska Court System. ALASKA R. ADMIN. 12(e)(5).</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>(e) “Guardian ad litem” means a person appointed by the court to represent the best interests of the child in the CINA proceeding as distinguished from a guardian of the person defined in paragraph (d). ALASKA CINA R. 2(e)</p> <p>(e) In all actions taken by the department or a health and social services agency of a local government under this chapter that result in a judicial proceeding, the child shall be represented by a guardian ad litem in that proceeding. Appointment of a guardian ad litem shall be made in accordance with AS 25.24.310. ALASKA STAT. ANN. § 47.17.030(e)</p> <p>The GAL represents the best interests of the child in a CINA proceeding. The GAL determines and advocates for the best interests of the child given the child’s situation, taking into account the child’s age, maturity, culture and ethnicity, and public laws and policies regarding family preservation and timely permanency planning. ALASKA CINA R. 11(f)(1).</p> <p>...[T]he court may, upon the motion of either party or upon its own motion, appoint an attorney or other person or the office of public advocacy to provide guardian ad litem services to a child in any legal proceedings involving the child's welfare. The court shall require a guardian ad litem when, in the opinion of the court, representation of the child's best interests, to be distinguished from preferences, would serve the welfare of the child. The court in its order appointing a guardian ad litem shall limit the duration of the appointment of the guardian ad litem to the pendency of the legal proceedings affecting the child's interests, and shall outline the guardian ad litem's responsibilities and limit the authority to those matters related to</p>

the guardian's effective representation of the child's best interests in the pending legal proceeding. The court shall make every reasonable effort to appoint a guardian ad litem from among persons in the community where the child's parents or the person having legal custody or guardianship of the child's person reside....If one or both of the parties is indigent or temporarily without funds the court shall appoint the office of public advocacy. The court shall notify the office of public advocacy if the office is required to provide guardian ad litem services. The court shall enter an order for costs, fees, and disbursements in favor of the state and may further order that other services be provided for the protection of a minor or other child. [ALASKA STAT. ANN. § 25.24.310\(c\)](#).

Whenever in the course of proceedings instituted under this chapter it appears to the court that the welfare of a child will be promoted by the appointment of an attorney to represent the child, the court may make the appointment. If it appears to the court that the welfare of a child in the proceeding will be promoted by the appointment of a guardian ad litem, the court shall make the appointment. Appointment of a guardian ad litem or attorney shall be made under the terms of AS 25.24.310. [ALASKA STAT. ANN. § 47.10.050\(a\)](#).

The court shall appoint counsel pursuant to Administrative Rule 12:

- (3) for a child when the court determines that the interests of justice require the appointment of an attorney to represent the child's expressed interests; and
- (4) for a non-attorney guardian ad litem when legal representation of the guardian ad litem is necessary. [ALASKA CINA R. 12\(b\)\(3-4\)](#).

CINA Rule 12(b)(3) provides that a child is entitled to a separate attorney when the interests of justice require such an appointment. For example, a GAL might ask for an attorney appointment when an older child's stated wishes differ from the GAL's best interest position on a substantive issue such as placement. [Office of Public Advocacy, Guidelines for Contract and Court-Appointed Guardians ad Litem in CINA Proceedings, § 10](#).

The legislature finds that

- (3) it is the policy of the state to recognize that, when a child is a ward of the state, the child is entitled to reasonable safety, adequate care, and adequate treatment and that the Department of Health and Social Services as legal custodian and the child's guardian ad litem as guardian of the child's best interests and their agents and assignees, each should make reasonable efforts to ensure that the child is provided with reasonable safety, adequate care, and adequate treatment for the duration of time that the child is a ward of the state;
- (4) it is in the best interests of a child who has been removed from the child's own home for the state to apply the following principles in resolving the situation:
 - (A) the child should be placed in a safe, secure, and stable environment;
 - (B) the child should not be moved unnecessarily;
 - (C) a planning process should be followed to lead to permanent placement of the child;
 - (D) every effort should be made to encourage psychological attachment between the adult caregiver and the child;
 - (E) frequent, regular, and reasonable visitation with the parent or guardian and family members should be encouraged; and
 - (F) parents and guardians must actively participate in family support services so as to facilitate the child's being able to remain in the home; when children are removed from the home, the parents and guardians must actively participate in

	<p>family support services to make return of their children to the home possible. ALASKA STAT. ANN. § 47.05.065(3)-(4).</p> <p>(b) Role of Guardian ad Litem. The GAL must represent and advocate for the best interests of the child in light of federal and state law.</p> <p>COMMENTARY: <i>The GAL must decide, based on thorough and ongoing investigation, what course of action is in the child's best interests. The GAL must then advocate for this course of action, regardless of whether the child agrees with the GAL's position.</i></p> <p>ALASKA CINA R. 11(b) and Commentary</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>When a recipient of or applicant for services is the subject of a court proceeding in which a guardian ad litem is appointed for that client, the department may release child protection information concerning the client to the client's guardian ad litem. ALASKA ADMIN. CODE tit. 7 § 54.070.</p> <p>(d) An order appointing a GAL should authorize the GAL to have access, without further court order, to all records of the child, including confidential and privileged records such as mental health records; medical records; law enforcement records; juvenile justice records; vital statistics records; financial records; and educational records, including special education records. ALASKA CINA R. 11(d).</p> <p>(g) Contact With Child, Other Parties, and the Court.</p> <p>(1) <i>Contact With Child.</i> The GAL may meet with the child as often as necessary to ascertain and represent the child's best interests. Reasonable access by the GAL cannot be denied, absent court order, by any party or service provider, or by the child's attorney, if one has been appointed. An attorney or representative for a party other than the child shall not communicate with the child concerning the substance of the case without reasonable notice to the GAL and the social worker and the consent of the GAL and the social worker, or a court order authorizing the communication. ALASKA CINA R. 11(g)(1).</p> <p>(b) Before the disposition hearing of a child in need of aid the department shall submit a predisposition report to aid the court in its selection of a disposition. This report must include, but is not limited to, the following:</p> <ol style="list-style-type: none"> (1) a statement of changes in the child's or parent's behavior, which will aid the court in determining that supervision of the family or placement is no longer necessary; (2) if removal from the home is recommended, a description of the reasons the child cannot be protected or rehabilitated adequately in the home, including a description of any previous efforts to work with the parents and the child in the home and the parents' attitude toward placement of the child; (3) a description of the potential harm to the child that may result from removal from the home and any efforts that can be made to minimize such harm; and (4) any further information that the court may request. <p>(c) The court shall inform the child, the child's parents and the attorneys representing the parties and the guardian ad litem that the predisposition report will be available to them not less than 10 days before the disposition hearing. ALASKA STAT. § 47.10.081(b)-(c). ALASKA CINA R. 16(a)(1).</p>

(a) Predisposition Reports.

(2) Unless waived by the parties with the approval of the court, the guardian ad litem shall submit a predisposition report. The report shall be child-focused and fact-based, and shall include the guardian ad litem's position regarding legal custody, placement, visitation, the child's case plan, and the parent's case plan. If there is a conflict between the guardian ad litem's position and the child's preference, that conflict must be disclosed in the report.

(3) Unless otherwise ordered by the court, the Department must file and serve its predisposition report on the parties fifteen days before the disposition hearing, and the guardian ad litem must file and serve its predisposition report on the parties ten days before the disposition hearing. [ALASKA CINA R. 16\(a\)\(2\)-\(3\)](#).

As part of the duty to the child the GAL shall:

a. Conduct ongoing independent investigation, including, as reasonable and appropriate:

(1) in-person visits with the child;

(2) a review of all relevant records;

(3) interviews with parents, social workers, teachers, and other persons as necessary to assess the child's situation; and

(4) observations of the child's interactions with parents or other potential long-term caregivers;

b. Identify relatives, family friends, or other persons who are potential placement options, and take such steps as may be necessary to offer such persons to the Department and/or to the court for placement determinations;

c. Advocate for early tribal identification and paternity determinations;

d. Consult professionals as necessary to determine the child's best interests;

e. Participate in the case planning process;

f. Monitor the provision and utilization of family support services;

g. Determine whether to seek appointment of a GAL or attorney in related proceedings;

h. Monitor services to the child provided by educational, medical, mental health, and other community systems and ensure these services are promoting the best interests of the child;

i. When appropriate, seek cooperative solutions to the child's situation that serve the child's best interests;

j. Explain the court proceedings, the role of the GAL, and the child's rights to the child, when appropriate, in the language and terms the child can understand; encourage older children to attend and participate in court hearings as appropriate; and determine whether and under what conditions younger children should attend court hearings; and

k. Determine whether to call the child as a witness or determine appropriate action if others seek the child's testimony, and provide orientation of the child to the process. [Office of Public Advocacy, Guidelines for Contract and Court-Appointed Guardians ad Litem in CINA Proceedings, § 5.](#)

Whenever practicable, the GAL shall have a face-to-face contact with the child within five working days after receiving a case assignment. A minimum of one more face-to-face visit shall occur prior to the disposition hearing, but the GAL is encouraged to have as much face-to-face contact with the child as possible prior to disposition. After disposition, the GAL shall visit with the child at least every six months until the case is closed. The GAL shall, if possible, communicate with the child prior to major decisions being made (such as placement changes, permanency determinations and extensions of custody). In cases where the child has been placed out of the home, the GAL must consult with the child's foster parents or other care providers at least every two months. [Office of Public Advocacy, Guidelines for Contract and Court-Appointed](#)

[Guardians ad Litem in CINA Proceedings, § 7.](#)

(f) Discovery From Guardian Ad Litem.

(1) *Discovery of Documents in Guardian Ad Litem's Possession.* A party may obtain discovery of documents in the possession, custody, or control of the guardian ad litem, subject to the following limitations:

(A) the documents must be discoverable under Civil Rule 26(b)(1); and

(B) trial preparation materials as defined in Civil Rule 26(b)(3) are discoverable only as permitted by that rule.

(2) *Discovery Regarding Guardian Ad Litem's Testimony.* If the guardian ad litem has served notice that the guardian ad litem intends to testify, a party may obtain discovery from the guardian ad litem about the substance of this testimony.

(3) *Other Inquiry.* A party may obtain other discovery from a guardian ad litem only as permitted by the court upon a showing of good cause. The court may permit a party to question a guardian ad litem about the guardian ad litem's professional qualifications and experience or the guardian ad litem's performance in the case. But this inquiry must be conducted in the presence of the court. [ALASKA CINA R. 8\(f\).](#)

(c) **Initial Disclosures.** Except to the extent otherwise directed by order or rule, a party shall, without awaiting a discovery request, provide to other parties the following information, excluding any privileged material:

(6) a guardian ad litem shall disclose a list of the types of information the guardian ad litem has gathered regarding the case, including records from specified sources and the names and contact information for persons interviewed or surveyed who are not parties, yet have provided information about the case. [ALASKA CINA R. 8\(c\)\(6\).](#)

(i) Confidentiality.

(1) The child's statements to the GAL are not confidential.

(2) The GAL may disclose information if the GAL determines that disclosure is in the child's best interests.

(3) The GAL shall advise the child in advance of any interview that the child's statements may be disclosed.

COMMENTARY

If the GAL is an attorney, he or she acts in a capacity as a GAL rather than as an attorney, and information received from the child is not subject to the attorney-client privilege. Cf. Ethics Opinion 85-4, ALASKA Bar Association. Notwithstanding these provisions, the GAL may seek a protective order to keep certain communications confidential in accordance with discovery rules. [ALASKA CINA R. 11\(i\).](#)

(b) In all cases under this chapter, the child, each parent, the tribe, foster parent or other out-of-home care provider, guardian, and guardian ad litem of the child and, subject to (d) and (e) of this section, each grandparent of the child shall be given notice adequate to give actual notice of the proceedings and the possibility of termination of parental rights and responsibilities, taking into account education and language differences that are known or reasonably ascertainable by the petitioner or the department. [ALASKA STAT. ANN. § 47.10.030\(b\).](#)

(3) Within seven days of the court's appointment, the designated GAL must file an entry of appearance indicating whether or not the GAL is an attorney and certifying that the GAL has completed guardian ad litem training through OPA. [ALASKA](#)

	<p>CINA R. 11(a)(3).</p> <p>(f) Duties of Guardian ad Litem. <i>(2) Duty to the Child.</i> The GAL shall</p> <p>(A) conduct ongoing independent investigations, including, as reasonable and appropriate: in-person visits with the child; review of records; interviews with parents, social workers, teachers, and other persons as necessary to assess the child's situation; and observations of the child's interactions with parents or other potential caregivers;</p> <p>(B) identify relatives, family friends, or other persons who are potential placement options, and take such steps as may be necessary to offer such persons to the Department and/or to the court for placement determinations;</p> <p>(C) advocate for early tribal identification and paternity determinations;</p> <p>(D) consult professionals as necessary to determine the child's best interests;</p> <p>(E) participate in the case planning process;</p> <p>(F) monitor the provision and utilization of family support services;</p> <p>(G) determine whether to seek appointment of a GAL or attorney in related legal proceedings;</p> <p>(H) monitor services to the child provided by educational, medical, mental health, and other community systems and ensure these services are promoting the best interests of the child;</p> <p>(I) when appropriate, seek cooperative solutions to disputes concerning the child's situation that serve the child's best interests;</p> <p>(J) explain the court proceedings, the role of the GAL, and the child's rights to the child, when appropriate, in language and terms the child can understand; encourage older children to attend and participate in court hearings as appropriate; and determine whether and under what conditions younger children should attend court hearings; and</p> <p>(K) determine whether to call the child as a witness or determine appropriate action if others seek the child's testimony, and familiarize the child with the process of testifying. ALASKA CINA R. 11(f)(2).</p> <p>(b) Privileges Inapplicable. <i>(3) Psychotherapist-Patient Privilege.</i> (B) The privilege applies to the child unless the child or the child's guardian ad litem waives the privilege, or the party seeking disclosure shows that the need for the requested disclosure outweighs the child's interest in confidentiality. ALASKA CINA R. 9(b)(3)(B).</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-</p>	<p>(4) Throughout the period of appointment, the GAL is a party to the proceeding, and must be served with copies of all pleadings and papers relating to the child and must be given notice of all court proceedings. The GAL, whether an attorney or a non-attorney, has the right to appear and participate at hearings on behalf of the child. Because the GAL stands in the place of the child in court, a GAL may also engage in motion practice, conduct discovery, introduce evidence, examine and cross-examine witnesses, make objections, make opening statements and closing arguments, and take or participate in an appeal. ALASKA CINA R. 11(a)(4).</p> <p>(h) Testimony. (1) The GAL shall not testify at a trial or hearing unless the court determines that:</p>

disposition.	<p>(A) the testimony relates to an uncontested issue;</p> <p>(B) the testimony is necessary to present factual evidence on a material issue that is not available from another source; or</p> <p>(C) there is a compelling need for the testimony.</p> <p>(2) A GAL who intends to testify, or the party who intends to call the GAL as a witness, shall file and serve a motion identifying the subject of the testimony and stating the reasons why the testimony would be permissible under subsection (h)(1) of this rule.</p> <p>(3) If the court grants the motion for testimony from the GAL, the court should consider whether the GAL can still effectively represent the best interests of the child. If not, the court may require OPA to discharge the GAL, appoint another GAL, or appoint an attorney for the GAL or the child.</p> <p>(4) A GAL who testifies may be cross-examined like any other witness. ALASKA CINA R. 11(h).</p> <p>(F) Evidence Rule 504(c) does not apply in child in need of aid proceedings. Unless otherwise ordered, the child's psychotherapist-patient privilege may only be claimed or waived as follows:</p> <p>(i) If the child is twelve or older, the privilege may be claimed or waived by the child after consulting with an attorney, if an attorney has been appointed, or with the guardian ad litem.</p> <p>(ii) If the child is younger than twelve, the privilege may be claimed or waived by the guardian ad litem.</p> <p>(iii) The person who was the psychotherapist at the time of the communication is presumed to have authority to claim the privilege on behalf of the child. ALASKA CINA R. 9(b)(3)(F).</p> <p>A GAL, including an attorney GAL, does not have a confidential or attorney/client privilege with the child whose best interests the GAL represents. A GAL may, however, seek a protective order if the GAL believes that it would be harmful to the child to have information the child has shared with the GAL released to other parties in a case. Office of Public Advocacy, Guidelines for Contract and Court-Appointed Guardians ad Litem in CINA Proceedings, § 18.</p> <p>As part of the GAL's duty to the court, the GAL shall: a. Appear at all hearings, present appropriate witnesses to testify at hearings, and present relevant information about the child's status and needs to the court; b. Provide timely written reports as required by court order or rule; c. Request specific court orders for evaluation, services, visitation, treatment for the child and the child's family, and placement of the child; d. Take appropriate and timely action when services are not being made available to the child, the family or both; when the child or family fails to take advantage of such services; or when services are not achieving their purpose; e. Take appropriate action when informed of any violations of orders, new developments, or material changes in the child's circumstances; and f. Advise the court promptly if appointment of counsel for the child should be considered. Office of Public Advocacy, Guidelines for Contract and Court-Appointed Guardians ad Litem in CINA Proceedings, § 5.</p> <p>(b) Presence of the Child. A child who is not of suitable age to understand or participate in the proceedings need not be present at hearings unless the court so orders. The court may excuse the presence of a child who is of suitable age if attendance would be detrimental to the child. The child or the child's guardian ad litem may waive the child's right to be present at a particular hearing. ALASKA CINA R. 3(b).</p> <p>(f) Duties of Guardian ad Litem.</p>
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	<p>(3) <i>Duty to the Court.</i> The GAL will:</p> <p>(A) appear at all hearings, present appropriate witnesses to testify at hearings, and present relevant information about the child's status and needs to the court;</p> <p>(B) provide timely written reports as required by court order or rule;</p> <p>(C) request specific court orders for evaluation, services, visitation, treatment for the child and the child's family, and placement of the child;</p> <p>(D) take appropriate and timely action when services are not being made available to the child, the family or both; when the child or family fails to take advantage of such services; or when services are not achieving their purpose;</p> <p>(E) take appropriate action when informed of any violations of orders, new developments, or material changes in the child's circumstances; and</p> <p>(F) advise the court promptly if appointment of counsel for the child should be considered. ALASKA CINA R. 11(f)(3).</p> <p>(c) Physician-Psychotherapist Patient Privilege: Who May Claim the Privilege. The privilege may be claimed by the patient, by the patient's guardian, guardian ad litem or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychotherapist at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient. ALASKA R. EVID. 504(c).</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>(c) If the court finds that the child is a child in need of aid, the court shall</p> <p>(1) order the child committed to the department for placement in an appropriate setting for a period of time not to exceed two years or in any event not to extend past the date the child becomes 19 years of age, except that the department, the child, or the child's guardian ad litem may petition for and the court may grant in a hearing</p> <p>(A) one-year extensions of commitment that do not extend beyond the child's 19th birthday if the extension is in the best interests of the child; and</p> <p>(B) additional one-year extensions of commitment past 19 years of age that do not extend beyond the person's 21st birthday if the continued state custody is in the best interests of the person and the person consents to it;</p> <p>(2) order the child released to a parent, adult family member, or guardian of the child or to another suitable person, and, in appropriate cases, order the parent, adult family member, guardian, or other person to provide medical or other care and treatment; if the court releases the child, it shall direct the department to supervise the care and treatment given to the child, but the court may dispense with the department's supervision if the court finds that the adult to whom the child is released will adequately care for the child without supervision; the department's supervision may not exceed two years or in any event extend past the date the child reaches 19 years of age, except that the department or the child's guardian ad litem may petition for and the court may grant in a hearing</p> <p>(A) one-year extensions of supervision that do not extend beyond the child's 19th birthday if the extensions are in the best interests of the child; and</p> <p>(B) an additional one-year period of supervision past 19 years of age if the continued supervision is in the best interests of the person and the person consents to it; ALASKA STAT. ANN. § 47.10.080(c)(1)-(2).</p>

(f) A child found to be a child in need of aid is a ward of the state while committed to the department or the department has the power to supervise the child's actions. For an order made under (c)(1) of this section, the court shall hold a permanency hearing as required by (l) of this section and at least annually thereafter during the continuation of foster care to determine if continued placement, as it is being provided, is in the best interest of the child. The department, the child, and the child's parents, guardian, and guardian ad litem are entitled, when good cause is shown, to a permanency hearing on application. If the application is granted, the court shall afford these persons and their counsel reasonable advance notice and hold a permanency hearing where these persons and their counsel shall be afforded an opportunity to be heard. The persons entitled to notice under AS 47.10.030(b) and the grandparents entitled to notice under AS 47.10.030(d) are entitled to notice of a permanency hearing under this subsection and are also entitled to be heard at the hearing. The child shall be afforded the opportunity to be present and to be heard at the permanency hearing. After the permanency hearing, the court shall make the written findings that are required under (l) of this section. The court shall review an order made under (c)(2) of this section at least annually to determine if continued supervision, as it is being provided, is in the best interest of the child; this review is not considered to be a permanency hearing and is not governed by the provisions of this subsection that relate to permanency hearings. [ALASKA STAT. ANN. § 47.10.080\(f\)](#).

(l) Within 12 months after the date a child enters foster care as calculated under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and permanent plan developed in the hearing are governed by the following provisions:

- (1) the persons entitled to be heard under AS 47.10.070 or under (f) of this section are also entitled to be heard at the hearing held under this subsection;
- (2) when establishing the permanent plan for the child, the court shall make appropriate written findings, including findings related to whether
 - (A) and when the child should be returned to the parent or guardian;
 - (B) the child should be placed for adoption or legal guardianship and whether a petition for termination of parental rights should be filed by the department; and
 - (C) there is a compelling reason that the most appropriate placement for the child is in another planned, permanent living arrangement and the department has recommended the arrangement under AS 47.14.100(p); the findings under this paragraph must include the steps that are necessary to achieve the new arrangement;
- (3) if the court is unable to make a finding required under (2) of this subsection, the court shall hold another hearing within a reasonable period of time;
- (4) in addition to the findings required by (2) of this subsection, the court shall also make appropriate written findings related to
 - (A) whether the department has made the reasonable efforts required under AS 47.10.086 to offer appropriate family support services to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter;
 - (B) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter;
 - (C) if the permanent plan is for the child to remain in out-of-home-care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child; and
 - (D) whether the department has made reasonable efforts to finalize the permanent plan for the child;
- (5) the court shall hold a hearing to review the permanent plan at least annually until successful implementation of the plan;

	<p>if the plan approved by the court changes after the hearing, the department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the department. ALASKA STAT. ANN. § 47.10.080(l).</p> <p>(s) The department may transfer a child, in the child's best interests, from one placement setting to another, and the child, the child's parents or guardian, the child's foster parents or out-of-home caregiver, the child's guardian ad litem, the child's attorney, and the child's tribe are entitled to advance notice of a nonemergency transfer. A party opposed to the proposed transfer may request a hearing and must prove by clear and convincing evidence that the transfer would be contrary to the best interests of the child for the court to deny the transfer. A foster parent or out-of-home caregiver who requests a nonemergency change in placement of the child shall provide the department with reasonable advance notice of the requested change. ALASKA STAT. ANN. § 47.10.080(s).</p> <p>(a) Petition. The Department or the child's guardian ad litem may file a petition for an extension of the commitment to custody or supervision. The petition must be filed at least thirty days prior to the expiration of the existing disposition order. The petitioner shall serve notice of the time set for a hearing on the petition to those persons specified in CINA Rule 3(a) and to the child's tribe and Indian custodian, even if the tribe or Indian custodian has not intervened. If the tribe or Indian custodian has not intervened, the notice must include notice of the right to intervene in the action and to obtain documents filed in the case. ALASKA CINA R. 19.2(a).</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>(i) A child or the child's parents, guardian, or guardian ad litem, or attorney, acting on the child's behalf, or the department may appeal a judgment or order, or the stay, modification, setting aside, revocation, or enlargement of a judgment or order issued by the court under this chapter. Absent extraordinary circumstances, a decision on the appeal shall be issued no later than 90 days after the latest of the following:</p> <p>(1) the date oral argument, if any, is heard on the appeal; or</p> <p>(2) 45 days after the last date oral argument could have been timely requested if oral argument was not requested. ALASKA STAT. ANN. § 47.10.080(i).</p> <p>Because the GAL stands in the place of the child in court, a GAL may also ... take or participate in an appeal. ALASKA CINA R. 11(a)(4).</p> <p>A GAL must consult with the Public Advocate or regional coordinator prior to appealing a Superior Court decision or filing any pleadings in an appellate proceeding initiated by another party. Office of Public Advocacy, Guidelines for Contract and Court-Appointed Guardians ad Litem in CINA Proceedings, §23.</p> <p>(a) Grounds, Procedure. An appeal of a final judgment or order, or a petition for review of an interlocutory order or decision, may be taken subject to Appellate Rule 218 or other appropriate appellate procedures.</p> <p>(b) Stay. An order, judgment or decision of the superior court remains in effect pending appeal or review, unless stayed by order of the superior court or the supreme court. ALASKA CINA R. 21(a)-(b).</p>

<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p>(c) The court in its order appointing a guardian ad litem shall limit the duration of the appointment of the guardian ad litem to the pendency of the legal proceedings affecting the child's interests, and shall outline the guardian ad litem's responsibilities and limit the authority to those matters related to the guardian's effective representation of the child's best interests in the pending legal proceeding. ALASKA STAT. ANN. § 25.24.310(c).</p> <p>(a) Appointment. (1) The court shall appoint a guardian ad litem (GAL) in all Child in Need of Aid (CINA) proceedings as soon as possible after the CINA petition is filed. The appointment shall continue through all phases of the CINA proceeding unless the court orders otherwise. ALASKA CINA R. 11(a)(1).</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>In AS 44.21.410 - 44.21.460, "volunteer guardian ad litem" means a court-appointed special advocate (CASA). ALASKA STAT. ANN. § 44.21.470.</p> <p>(a) The office of public advocacy shall</p> <p>(3) provide guardian ad litem services to children in child protection actions under AS 47.17.030(e) and to wards and respondents in guardianship proceedings who will suffer financial hardship or become dependent upon a government agency or a private person or agency if the services are not provided at state expense under AS 13.26.025;</p> <p>(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under AS 47.15 (Interstate Compact for Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for protective orders on behalf of a minor; and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests;</p> <p>(6) develop and coordinate a program to recruit, select, train, assign, and supervise volunteer guardians ad litem from local communities to aid in delivering services in cases in which the office of public advocacy is appointed as guardian ad litem. ALASKA STAT. ANN. § 44.21.410(a)(3), (5)-(6).</p> <p>(a) Appointment. (1) The court shall appoint a guardian ad litem (GAL) in all Child in Need of Aid (CINA) proceedings as soon as possible after the CINA petition is filed. The appointment shall continue through all phases of the CINA proceeding unless the court orders otherwise. (2) If the Office of Public Advocacy (OPA) is appointed, OPA shall, in accordance with the qualifications set forth in subsection (c) of this rule, designate a specific person to serve as the guardian ad litem for the child. If OPA designates an OPA employee to be the GAL, the GAL for the child is deemed to be OPA. If OPA designates an independent contractor, or another person who is not employed by OPA, to be the GAL, the GAL for the child is deemed to be that designated person. (3) Within seven days of the court's appointment, the designated GAL must file an entry of appearance indicating whether or not the GAL is an attorney and certifying that the GAL has completed guardian ad litem training through OPA. ALASKA</p>

CINA R. 11(a)(3).

In all cases in which the GAL is to be appointed at public expense, the court must appoint the Office of Public Advocacy, which must designate a specific person to serve as the GAL.

The court may appoint an attorney to advise or represent a non-attorney GAL. If the court takes this action, and if the GAL was appointed at public expense, the court must appoint OPA as the attorney for the GAL. If the court appoints an attorney, it should take care to specify the scope and duration of the appointment. Under AS 47.10.050 and CINA Rule 12(b)(3), the court may also appoint an attorney for the child. [ALASKA CINA R. 11\(a\)\(1\)-\(3\) and Commentary.](#)

(a) Intent. The court shall appoint counsel or a guardian ad litem only when the court specifically determines that the appointment is clearly authorized by law or rule, and that the person for whom the appointment is made is financially eligible for an appointment at public expense. [ALASKA R. ADMIN. 12\(a\).](#)

(c) Appointments Under AS 44.21.410 (Office of Public Advocacy).

(1) *Appointment Procedure.* When a person qualifies for counsel or guardian ad litem services under AS 44.21.410, the court shall appoint the office of public advocacy. The court in its order appointing the office of public advocacy must state the authority for the appointment. In the case of a discretionary appointment, the court must give specific reasons for the appointment. In the case of a guardian ad litem appointment, the court shall limit the appointment to the pendency of the proceedings affecting the child's welfare, shall outline the guardian ad litem's responsibilities, and shall limit the guardian's authority to those matters related to the guardian's effective representation of the minor's best interests. [ALASKA R. ADMIN. 12\(c\)\(1\).](#)

(e) Other Appointments at Public Expense.

(1) *Constitutionally Required Appointments.* If the court determines that counsel, or a guardian ad litem, or other representative should be appointed for an indigent person, and further determines that the appointment is not authorized by AS 18.85.100(a) or AS 44.21.410, but in the opinion of the court is required by law or rule, the court shall appoint an attorney who is a member of the Alaska Bar Association to provide the required services. Other persons may be appointed to provide required services to the extent permissible by law.

(A) Appointments may be made in the following types of cases without prior approval of the administrative director, but only in cases in which the required services would not otherwise be provided by a public agency:

(iii) Attorneys for respondents in protective proceedings brought pursuant to AS 13.26 in which appointment of the office of public advocacy is not mandated by statute,

(B) In all other cases, the court shall inform the administrative director of the specific reasons why an appointment is required prior to making the appointment. [ALASKA R. ADMIN. 12\(e\)\(1\).](#)

(3) *List of Private Attorneys.*

(A) The presiding judge shall designate the area court administrator and a clerk of court for each court location in the district to keep and make available to the court in each location lists of attorneys or other persons eligible to receive court appointments under paragraph (e) of this rule.

(B) The attorney lists will first be compiled from names of persons who have volunteered to accept these appointments. If

	<p>there are insufficient volunteers, the court will make appointments on a rotation basis from lists of eligible attorneys obtained from the Alaska Bar Association. The court may, in departing from a strict rotation basis, take into account the complexity of the case and the level of experience required by counsel. ALASKA R. ADMIN 12(e)(3).</p> <p>(b) Appointed Counsel. The court shall appoint counsel pursuant to Administrative Rule 12: (3) for a child when the court determines that the interests of justice require the appointment of an attorney to represent the child's expressed interests; and (4) for a non-attorney guardian ad litem when legal representation of the guardian ad litem is necessary. ALASKA CINA R. 12(b)(3)-(4).</p> <p>(d) Standing Master's Authority to Enter Orders. A standing master is authorized to take the following actions without further approval by a superior court judge: (2) appoint counsel and guardians ad litem; ALASKA CINA R. 4(d)(2).</p> <p>(c) Instead of, or in addition to, appointment of an attorney under (a) of this section, the court may, upon the motion of either party or upon its own motion, appoint an attorney or other person or the office of public advocacy to provide guardian ad litem services to a child in any legal proceedings involving the child's welfare. The court shall require a guardian ad litem when, in the opinion of the court, representation of the child's best interests, to be distinguished from preferences, would serve the welfare of the child. The court in its order appointing a guardian ad litem shall limit the duration of the appointment of the guardian ad litem to the pendency of the legal proceedings affecting the child's interests, and shall outline the guardian ad litem's responsibilities and limit the authority to those matters related to the guardian's effective representation of the child's best interests in the pending legal proceeding. The court shall make every reasonable effort to appoint a guardian ad litem from among persons in the community where the child's parents or the person having legal custody or guardianship of the child's person reside. ALASKA STAT. ANN. § 25.24.310(c).</p> <p>In some instances, it may be in the child's best interests for the GAL to be appointed for the child in a related case (delinquency, custody, domestic violence, criminal, guardianship or adoption). A separate GAL appointment order should be issued in each case. A separate appointment is not required, but pursuant to CINA Rule 11(f)(2)(G) a GAL must determine whether to seek such an appointment. Appointments in related proceedings are encouraged and are generally in the child's best interests. Office of Public Advocacy, Guidelines for Contract and Court Appointed Guardians ad Litem in CINA Proceedings, §25.</p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>(c) Qualifications. (1) A GAL should possess knowledge, skill, experience, training, or education that allows the GAL to conduct an independent, thorough, and impartial investigation, and to advocate effectively for the best interests of the child. (2) The GAL should have an understanding of the following as appropriate to the case: (A) child development from infancy through adolescence; (B) the impact of child abuse and neglect on the child; (C) the impact of CINA proceedings, including out-of-home placement and the restriction or termination of parental rights,</p>

on the child;

(D) unique issues related to families involved in CINA proceedings, including such issues as substance abuse, domestic violence, and disabilities;

(E) community and other resources available for placement, treatment, and other necessary services for abused or neglected children;

(F) the ethnic, cultural, and socio-economic backgrounds of the population to be served;

(G) the Indian Child Welfare Act and the prevailing social and cultural standards of the Indian community in which the child, parent, Indian custodian, or extended family resides or with which the child, parent, Indian custodian, or extended family members maintain social and cultural ties;

(H) ALASKA and applicable federal statutes, rules, and supreme court decisions relating to CINA proceedings; and

(I) the ability to research and develop special areas of knowledge as appropriate or necessary in a given case. [ALASKA CINA R. 11\(c\)](#).

At a minimum, a non-attorney GAL should have a bachelor's degree in a related field. Relevant experience and/or training may be substituted for a degree. An attorney GAL must have a law degree and, preferably, work experience in a related field. GALs must pass a criminal and child protection background screening. Pursuant to Child in Need of Aid Rule 11(c), a GAL should possess knowledge, skill, experience, training, or education that allows the GAL to conduct an independent, thorough, and impartial investigation, and to advocate effectively for the best interests of the child. In addition, the GAL should have an understanding of the following as appropriate to the case:

- a. child development from infancy through adolescence;
- b. the impact of child abuse and neglect on the child;
- c. the impact of CINA proceedings, including out-of-home placement and the restriction or termination of parental rights, on the child;
- d. unique issues related to families involved in CINA proceedings, including such issues as substance abuse, domestic violence and disabilities;
- e. community and other resources available for placement, treatment, and other necessary services for abused or neglected children;
- f. the ethnic, cultural and socio-economic backgrounds of the population to be served;
- g. the Indian Child Welfare Act and the prevailing social and cultural standards of the Indian community where the child, parent, Indian custodian or extended family resides or maintains social and cultural ties;
- h. Alaska statutes, rules, and supreme court decisions relating to CINA proceedings; and
- i. the ability to research and develop special areas of knowledge as appropriate or necessary in a given case.

4. TRAINING

Initial training. A new GAL must complete CASA core training or the GAL Independent Study version of this training prior to receiving a case assignment as the first step in obtaining sufficient knowledge to satisfy CINA Rule 11. OPA may waive all or part of the initial training requirement for a new GAL depending on background or experience. Training certification forms are available from the Anchorage OPA office.

Ongoing training. GALs are encouraged to attend local conferences on subject matters related to a GAL's job performance. From time to time, OPA may reimburse the GAL for conference tuition or other expenses; any such reimbursement must be approved in advance by the Public Advocate. In addition, from time to time OPA may offer regional or statewide training

	<p>for GALs, and will attempt to cover expenses associated with attending the trainings. Office of Public Advocacy, Guidelines for Contract and Court-Appointed Guardians ad Litem in CINA Proceedings, § 3-4.</p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>A person appointed guardian ad litem by a court for an infant or incompetent defendant is not liable for the costs of the action. ALASKA STAT. ANN. § 09.60.020.</p> <p>If one or both of the parties is indigent or temporarily without funds the court shall appoint the office of public advocacy. The court shall notify the office of public advocacy if the office is required to provide guardian ad litem services. The court shall enter an order for costs, fees, and disbursements in favor of the state and may further order that other services be provided for the protection of a minor or other child. ALASKA STAT. ANN. § 25.24.310(c).</p> <p><i>(5) Compensation.</i></p> <p>(A) All claims for compensation must be submitted monthly or at least quarterly on forms provided by the court. The final claim for compensation must be submitted within 30 days following the disposition of a case. All claims must be submitted to Fiscal Operations, Alaska Court System, 820 West 4th Avenue, Anchorage, AK, 99501. The administrative director shall approve or disapprove the claim.</p> <p>(B) Attorneys will be compensated at the rate of \$75.00 per hour; provided, that total compensation for any case will not exceed \$1,000.00 without prior approval of the administrative director. An attorney who is appointed to serve as a guardian ad litem will be compensated at the attorney rate. ALASKA R. ADMIN. 12(e)(5).</p> <p><i>(3) Assessment of Costs.</i> In an appointment under AS 25.24.310 for representation of a minor, the court shall enter an order for costs, fees and disbursements in favor of the state. If the appointment is made in a proceeding in which custody, support or visitation is an issue, the court shall, if possible, avoid assigning costs to only one party by ordering that costs of the minor's legal representative or guardian services be paid from property belonging to both parents before a division of property is made. Alaska R. Admin. 12(c)(3).</p> <p>A guardian ad litem appointed by the court is entitled to be compensated as follows:</p> <p>(1) An attorney appointed as guardian ad litem is entitled to receive \$50 per hour for out-of-court work and \$60 per hour for in-court representation.</p> <p>(2) A person other than an attorney appointed as guardian ad litem is entitled to receive compensation in an amount not to exceed \$25 per hour.</p> <p>(3) The maximum compensation for any one case involving a single family, irrespective of the number of children in the family who are represented, will not exceed \$ 1,500 unless excess compensation is approved by the public advocate under 2 AAC 60.060. ALASKA ADMIN. CODE tit. 2, § 60.030.</p>
<p>10. Caseload Levels: Caseloads are of a manageable size.</p>	<p><i>No explicit legal authority or requirement.</i></p>