

VIRGINIA

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>B. The Judicial Council shall maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as guardians ad litem based upon the standards and shall make the names available to the courts. If no attorney who is on the list is reasonably available, a judge in his discretion, may appoint any discreet and competent attorney who is admitted to practice law in Virginia. <a href="#">VA Code § 16.1-266.1</a></p>
<p>Funding Child Representation</p>	<p>Any statement submitted by an attorney for payments due him for indigent representation or for representation of a child pursuant to § <a href="#">16.1-266</a> shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment. <a href="#">VA Code § 19.2-163.</a></p> <p>Compensation of appointed counsel.</p> <p>A. When the court appoints counsel to represent a child pursuant to subsection A of § <a href="#">16.1-266</a> and, after an investigation by the court services unit, finds that the parents are financially able to pay for the attorney and refuse to do so, the court shall assess costs against the parents for such legal services in the maximum amount of that awarded the attorney by the court under the circumstances of the case, considering such factors as the ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount shall not exceed the maximum amount specified in subdivision 1 of § <a href="#">19.2-163</a> if the action is in district court. <a href="#">VA Code § 16.1-267</a></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</p>	<p>A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected or who is the subject of an entrustment agreement or a petition seeking termination of residual parental rights or who is otherwise before the court pursuant to subdivision A 4 of § <a href="#">16.1-241</a> or § <a href="#">63.2-1230</a>, the court shall appoint a discreet and competent attorney-at-law as guardian ad litem to represent the child pursuant to § <a href="#">16.1-266.1</a>.</p> <p>...</p> <p>E. In those cases described in subsections A, B, C and D, which in the discretion of the court require counsel or a guardian ad litem to represent the child or children or the parent or guardian or other adult party in addition to the representation provided in those subsections, a discreet and competent attorney-at-law may be appointed by the court as counsel or a guardian ad litem. <a href="#">VA Code § 16.1-266.</a></p>

<p>disabilities, and accommodate client preferences.</p>	<p>The role and responsibility of the GAL is to represent, as an attorney, the child’s best interests before the court. <a href="#">VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.</a></p> <p>The role of counsel for a child is the representation of the child's legitimate interests. When appointed for a child, the guardian ad litem shall vigorously represent the child, fully protecting the child's interest and welfare. The guardian ad litem shall advise the court of the wishes of the child in any case where the wishes of the child conflict with the opinion of the guardian ad litem as to what is in the child's interest and welfare. <a href="#">VA Sup. Ct. R. 8:6.</a></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>The GAL is a full and active participant in the proceedings who independently investigates, assesses and advocates for the child’s best interests. <a href="#">VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.</a></p> <p>A. Meet face-to-face and interview the child.</p> <p>COMMENT: The first duty of the GAL is to establish a relationship with the child client, as an attorney would with any client. This interview should be conducted face-to-face at a time and place that allows the GAL to observe the child and ascertain: the child’s wishes, the safety and adequacy of the child’s current placement, and the need for further testing, evaluation or interim judicial relief. Such interviews are best conducted on a date prior to the first court appearance and at a location other than the courthouse. It is important to meet with the child in a private setting, such as the GAL’s office, the child’s home, school or placement, away from the litigants so that the child can talk openly.</p> <p>There should be sufficient time between the interview and court appearances for the GAL to fully analyze the information gleaned, take appropriate actions and formulate meaningful arguments and recommendations.</p> <p>The content and direction of the interview should take into account the child’s age, maturity and potential stress created by the circumstances of the case and prior interviews, especially in cases involving allegations of sexual or other abuse. In such cases, GALs should rely upon videotapes of forensic interviews or attend interviews of the child conducted by trained experts rather than conducting their own</p>

independent investigation and interviewing the child about the facts of their alleged victimization.

As appropriate, children should be encouraged to articulate their concerns and views. In custody and visitation cases, care should be taken so that the child never feels compelled to state a preference or choose between parents or placements.

In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the GAL should exercise caution when talking to the child about the circumstances of the offense and advise the child about the limitations on confidentiality that may apply.

Young children present a challenge, but the age and verbal ability of the child do not abrogate the responsibility to meet face-to-face with the child. In meetings with young children, and with children with limited language abilities or those with disabilities, the GAL will rely much more heavily on observation. Conducting such meetings at the child's home or placement allows the GAL to observe the surroundings and the child's interactions with others, as well as to interview the child's caretaker.

If the child expresses wishes that are contrary to the GAL's assessment of the child's interests and welfare, the GAL is obligated to inform the court of these wishes. If appropriate, the GAL should request that an attorney be appointed to serve as counsel for the child. If the child is uncooperative or appears to have been influenced by a parent or custodian, the GAL should inform the court of these circumstances.

B. Conduct an independent investigation in order to ascertain the facts of the case.

COMMENT: The GAL shall review any and all relevant records, which may include court, social service, medical, mental health, and school records. The GAL should attach a copy of the Supreme Court of Virginia's Form DC-514, ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM, to any written request for records since it delineates the statutory authority for access to records.

The GAL shall interview the parties to the dispute and any other persons with relevant knowledge of the child and the facts that gave rise to the allegations. Such other persons would include, for example, the child's parents, current caretaker including foster parents, an assigned Court-Appointed Special Advocate (CASA) worker, social worker, child care provider, clergy, neighbors, relatives, school personnel, and health and mental health providers. When the child is young, there is a greater need to seek independent

sources of information and obtain verification of salient facts. Such interviews are best conducted on a date prior to the court appearances and at a location other than the courthouse.

GALs should communicate their role and responsibilities clearly to the parents and/or other party's attorneys including the GAL's legal status in the proceeding and responsibility to participate fully to protect the child's interests and express the child's wishes.

In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the GAL should contact the child's defense attorney.

There should be sufficient time between the interview and court appearances for the GAL to fully analyze the information gleaned, take appropriate actions such as issuing subpoenas, filing motions for temporary or protective relief or appointment of an independent expert to evaluate the child, and formulate a meaningful strategy.

If the home environment is at issue, the GAL should visit the child's home and any proposed alternative placement.

GALs should independently evaluate all allegations of child abuse or neglect, or of risk to the child's safety or welfare, including but not limited to physical or mental abuse, sexual abuse, lack of supervision, educational neglect, and exposure of the child to domestic violence or substance abuse, regardless of whether such abuse or neglect or risk is identified in the parties' pleadings.

C. Advise the child, in terms the child can understand, of the nature of all proceedings, the child's rights, the role and responsibilities of the GAL, the court process and the possible consequences of the legal action.

COMMENT: The GAL shall make every effort to ensure that the child understands, by using language appropriate to the child's age and verbal abilities, the nature of the proceedings, the consequences which may result, the possibility of future modifications, the attorney's responsibilities as a GAL, and how to contact the GAL. If the child has significant emotional problems, the GAL should consult with a mental health specialist or the child's therapist in order to determine the best manner to present this information.

In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the GAL should explain how the GAL's role and responsibilities differ from that of the child's defense attorney and advise the child about the limitations on confidentiality that may apply.

The GAL must inform the child that there may be circumstances when confidentiality will apply to communication between the child and GAL, and circumstances when it may not. The GAL may use information received from the child to further the child's best interest. For example, the GAL may learn from the child that a custodian is taking illegal drugs and may use that information to request that the court order drug testing of the custodian.

The GAL should keep the child apprised of any developments in the case and actions of the court or parties involved. The GAL shall maintain meaningful contact with the child throughout the term of the case to monitor the child's welfare and the parties' compliance with court orders.

D. Participate, as appropriate, in pre-trial conferences, mediation and negotiations.

COMMENT: The GAL should be involved, as appropriate, in all pre-trial conferences and negotiations including phone calls, formal or informal conferences and mediation. Additionally, the GAL should take any action necessary to attempt to resolve the case in the least adversarial manner possible; however, a GAL should clarify, when necessary, that he or she is not acting as a mediator.

The GAL's role in such meetings is to represent and advocate for the best interests of the child. A GAL who participates in mediation is bound by the confidentiality rules governing mediation as found in § 8.01-576.10 of the *Code of Virginia*. As a general rule, the GAL should encourage settlements. In exceptional cases where the GAL reasonably believes that a proposed settlement would be contrary to the welfare of the child, the GAL should first discuss these concerns with the parties and their counsel. If these concerns are not addressed, the GAL should bring the facts that led to the concerns about the settlement to the court's attention by filing a motion to vacate the agreement in accordance with § 8.01-576.12 of the *Code of Virginia*. Any proposed settlement which is deleterious to the child should be opposed despite the agreement of the other parties.

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	<p>I. Communicate, coordinate and maintain a professional working relationship in so far as possible with all parties without sacrificing independence.</p> <p>COMMENT: Whenever it is appropriate to the child’s needs and consistent with the direction of the court, the GAL should attend all meetings or hearings involving legal, educational and therapeutic issues specifically related to the case. These would include meetings of the Family Assessment and Planning Team, Individualized Education Plan (IEP) meetings, school disciplinary or other educational meetings, and foster care placement and review meetings. The GAL can present the child’s perspective, gather information necessary to proper representation, and potentially achieve a negotiated settlement of all or some issues of the case at such meetings.</p> <p>The GAL should contact any CASA volunteer assigned to the case and coordinate all aspects of the investigation with the CASA volunteer. Such volunteers can offer significant information and assistance to the GAL.</p> <p>The GAL should contact the attorneys for the other parties to the case as soon as possible and at least seventy-two hours prior to any hearing. Counsel for other parties to the case may have information not included in any of the available records and can provide their respective clients’ perspectives.</p> <p>Appropriate communication should be maintained between the GAL and all agencies and professionals involved in the case. <a href="#">VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.</a></p> <p>G. Any state or local agency, department, authority or institution and any school, hospital, physician or other health or mental health care provider shall permit a guardian ad litem or counsel for the child appointed pursuant to this section to inspect and copy, without the consent of the child or his parents, any records relating to the child whom the guardian or counsel represents upon presentation by him of a copy of the court order appointing him or a court order specifically allowing him such access. Upon request therefor by the guardian ad litem or counsel for the child made at least 72 hours in advance, a mental health care provider shall make himself available to conduct a review and interpretation of the child's treatment records which are specifically related to the investigation. Such a request may be made in lieu of or in addition to inspection and copying of the records. <a href="#">VA Code § 16.1-266.</a></p>
3. In Court – Active	The GAL is a full and active participant in the proceedings who independently investigates, assesses and

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.

advocates for the child's best interests. [VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.](#)

E. Ensure the child's attendance at all proceedings where the child's attendance would be appropriate and/or mandated.

COMMENT: In so far as possible, the GAL should assure the meaningful participation of the child in all phases of the proceedings which would include attendance at appropriate court hearings.

The GAL should consult the child, caretaker, therapist and any other relevant individuals to determine the appropriateness of the child's attendance at a hearing. A decision to exclude the child from a hearing should be based on a particularized determination. In making this determination, the GAL should consider the age, maturity and desires of the child; the purpose of the hearing; the advice of those consulted; and the potential risk of trauma to the child evoked by such attendance.

In cases when the child has the right to attend hearings, the GAL should ensure that the child is informed of that right. As appropriate, the child should be provided sufficient information about such hearings to make an informed decision about whether to attend.

F. Appear in Court on the dates and times scheduled for hearings prepared to fully and vigorously represent the child's interests.

COMMENT: As in any case, the GAL is expected to act as an advocate for the client child. This demands attendance at all hearings with the intention of presenting a well formulated position based on the facts. This position should be supported by the GAL's independent investigation, and through the development of a theory and strategy for the case. The GAL should prepare, present and cross-examine witnesses, offer exhibits, and provide independent evidence as necessary. Although the child's position may overlap positions of other parties such as the parents, the GAL should be prepared to participate fully in every hearing and not merely defer to or endorse the positions of other parties. The GAL acts as an advocate and uses every attorney skill appropriate to further a result favorable to the child's best interest. The GAL should never engage in ex parte communications with the court or submit written material to the court without promptly delivering a copy to the other parties and their counsel.

G. Prepare the child to testify, when necessary and appropriate, in accord with the child's interest and welfare.

COMMENT: The GAL should determine whether to call the child as a witness based on consideration of the child's need or desire to testify, developmental and verbal capabilities of the child and the child's ability to withstand cross-examination. For some children testifying is therapeutic and empowering, while for others it may be very traumatic. The GAL must determine the possible benefits and repercussions of testifying and the necessity of the child's direct testimony. The GAL shall consult a mental health specialist or therapist working with the child, if there is one, to assist in evaluating whether testifying will cause trauma to the child. Consideration should also be given to the availability of other evidence or hearsay exceptions that may substitute for direct testimony.

If the child does not wish to testify or would, in the GAL's opinion, be harmed by being forced to testify, the GAL should seek an agreement of the parties not to call the child as a witness or utilize other remedies such as an order from the court to limit the scope or circumstances of the testimony.

If the child is compelled to testify, the GAL should seek to minimize the adverse consequences by seeking appropriate accommodations as allowed by law, such as testimony taken by closed circuit television in accord with § 63.2-1521 of the *Code of Virginia* or an "in camera" interview of the child in the judge's chambers. The GAL should prepare the child for "in camera" interviews or testimony by explaining the nature and purpose of the proceeding and the use or disclosure that may be made of the information that the child provides during the proceeding.

In juvenile delinquency, child in need of supervision, child in need of services, and status offense cases, the child's defense attorney will take responsibility for preparing the child to testify when necessary.

H. Provide the court sufficient information including specific recommendations for court action based on the findings of the interviews and independent investigation.

COMMENT: The GAL is obligated to assure that all facts relevant to the case, available dispositional remedies and possible court orders are presented to the court. The GAL's arguments to the court should address every appropriate aspect of the litigation including: analysis of any allegations of abuse, neglect or risk; analysis of factors to be considered in a determination related to custody and visitation;

placement of the child; services to be made available to the child and family; dispositional alternatives for the child or parents in juvenile delinquency, child in need of supervision, child in need of services, status offense cases and custody and visitation arrangements; and any other orders the GAL deems to be in the child's interest. Recommendations for placements outside the home should take into consideration the availability and appropriateness of placement with relatives or friends, parental visitation and keeping a sibling group together.

The GAL's arguments should contain, but not be limited to, an analysis of and comment on plans presented by other parties such as the Department of Social Services, court services staff, or as a result of mediation.

In certain circumstances, a summary of the GAL's findings with recommendations and the basis for those recommendations may be presented to the court. Such circumstances include the dispositional phase of a case involving both an adjudicatory and dispositional phase or, at the request of the court, in a custody/visitation case. This summary may be written or oral. If written, copies of the summary should be provided to the other parties and their counsel at least five days prior to the hearing unless otherwise directed by the court.

In foster care placement, permanency planning, foster care review proceedings, and mediated agreements, the GAL should be aware of the proposed plans, should consult with the child about the proposal, and explore any alternatives the GAL believes are more appropriate. If the GAL disagrees with such plans, the court should be advised of this disagreement supported by evidence or information gleaned from the GAL's independent investigation.

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J. File appropriate petitions, motions, pleadings, briefs, and appeals on behalf of the child and ensure the child is represented by a GAL in any appeal involving the case.

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The GAL should also ensure that the child has representation in any appeal related to the case regardless of who files the appeal. During an appeal process initiated by another party, the GAL for a child may file

	<p>a brief and participate fully at oral argument.</p> <p>If the GAL feels he or she lacks the necessary experience or expertise to handle an appeal, the GAL should notify the court and seek to be replaced. <a href="#">VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.</a></p> <p>The role of counsel for a child is the representation of the child's legitimate interests. When appointed for a child, the guardian ad litem shall vigorously represent the child, fully protecting the child's interest and welfare. The guardian ad litem shall advise the court of the wishes of the child in any case where the wishes of the child conflict with the opinion of the guardian ad litem as to what is in the child's interest and welfare.</p> <p><a href="#">VA Sup. Ct. R. 8:6.</a></p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>K. Advise the child, in terms the child can understand, of the court's decision and its consequences for the child and others in the child's life.</p> <p>COMMENT: The GAL should review all orders to ensure they conform to the court's verbal orders and statutorily required findings and notices. The GAL should discuss all such orders and their consequences with the child. The child is entitled to understand what the court has done and what that means to the child. The GAL should explain whether the order may be modified or whether the actions of the parties may affect how the order is carried out. For example, an order may permit an agency to return the child to the parents if certain goals are accomplished. <a href="#">VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.</a></p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>J. File appropriate petitions, motions, pleadings, briefs, and appeals on behalf of the child and ensure the child is represented by a GAL in any appeal involving the case.</p> <p>COMMENT: The GAL should make appropriate motions, including motions <i>in limine</i> and evidentiary objections, to advance the child's best interest in court and during other proceedings. When necessary, the GAL should file briefs in support of legal issues. The GAL should file a show cause against a party who is not following a court order or a motion under § 16.1-278 to compel an agency to provide services</p>

	<p>if it is not doing so as ordered.</p> <p>If the GAL believes the court’s determination is contrary to the child’s interest or welfare, after considering the wishes of the child, a notice of appeal should be filed and measures taken to assure that the appeal is perfected expeditiously. The GAL should file any appropriate pleadings on behalf of the child, including responses to pleadings of other parties.</p> <p>The GAL should also ensure that the child has representation in any appeal related to the case regardless of who files the appeal. During an appeal process initiated by another party, the GAL for a child may file a brief and participate fully at oral argument.</p> <p>If the GAL feels he or she lacks the necessary experience or expertise to handle an appeal, the GAL should notify the court and seek to be replaced. <a href="#">VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.</a></p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p>The GAL continues to represent the child during appeals. <a href="#">VA Ct. R.: Standards to Govern the Performance of Guardian ad Litem for Children, Introduction.</a></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. On or before January 1, 1995, the Judicial Council of Virginia, in conjunction with the Virginia State Bar and the Virginia Bar Association, shall adopt standards for attorneys appointed as guardians ad litem pursuant to § <a href="#">16.1-266</a>. The standards shall, in so far as practicable, take into consideration the following criteria: (i) license or permission to practice law in Virginia, (ii) current training in the roles, responsibilities and duties of guardian ad litem representation, (iii) familiarity with the court system and general background in juvenile law, and (iv) demonstrated proficiency in this area of the law. Court appoints the CR. The administrative structure for support is not clear.</p> <p>B. The Judicial Council shall maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as guardians ad litem based upon the standards and shall make the names available to the courts. If no attorney who is on the list is reasonably available, a judge in his discretion, may appoint any discreet and competent attorney who is admitted to practice law in Virginia. <a href="#">VA Code § 16.1-266.1</a></p>

<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p><b>I. Initial Qualification Requirements</b> In accordance with the provisions of § 16.1-266.1, to qualify for appointment as guardian <i>ad litem</i> pursuant to § 16.1-266, a person shall:</p> <p>A. Be an active member in good standing of the Virginia State Bar.</p> <p>B. Within the two-year period immediately prior to the date requesting initial qualification as a guardian <i>ad litem</i>, comply with the following provisions:</p> <ol style="list-style-type: none"> <li>1. Complete the seven hour MCLE approved continuing legal education program “Representation of Children as a Guardian <i>Ad Litem</i>, which encompasses the following topics: <ol style="list-style-type: none"> <li>a. Overview of the Juvenile and Domestic Relations District Court Law</li> <li>b. Roles, responsibilities and duties of guardian <i>ad litem</i> representation</li> <li>c. Laws governing child abuse and neglect, foster care case review, termination of parental rights and entrustments</li> <li>d. Role of social services agencies in handling abuse and neglect cases</li> <li>e. Developmental needs of children</li> <li>f. Characteristics of abusive and neglectful families and of children who are victims; physical, medical and mental health aspects of child abuse and neglect</li> <li>g. Communication with children; children as witnesses; use of closed circuit television</li> <li>h. Cultural awareness</li> </ol> <p>The applicant attorney completing this program must attend the live course or a video replay of the live course, as offered by Virginia CLE.</p> <p>Certification of attendance at this course shall be submitted to the Office of the Executive Secretary, Supreme Court of Virginia, on the required form in accordance with Standard I.B.4.f hereof.</p> </li> <li>2. Demonstrate familiarity with the court system and a general background in juvenile law by completion of one of the following: <ol style="list-style-type: none"> <li>a. Participation as an attorney, or as a third-year law student under <a href="#">Part 6, § IV, Para. 15, of the Rules of the Supreme Court of Virginia</a>, in four cases in the juvenile and domestic relations district court involving children, excluding traffic cases; or</li> <li>b. Provision of assistance to one qualified guardian <i>ad litem</i>, who is an active member in good standing of the Virginia State Bar, in two cases involving children in the juvenile and domestic relations district court.</li> </ol> <p>The attorney seeking qualification shall provide the case types and approximate time frames of the attorney’s participation in the cases referenced, as well as the juvenile and domestic relations district court(s) in which the attorney appeared.</p> </li> </ol>
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	<p>COMMENT: Standard B.2.a The requirement to “participate” in four cases in the juvenile court either as an attorney or qualified third-year law student may be met by serving either as lead counsel or co-counsel.</p> <p>Standard B.2.b The requirement to “assist” one qualified guardian ad litem in two cases in the juvenile court may be met by the applicant attorney associating with the qualified guardian ad litem who serves as a mentor for those two cases. The purpose of this association is to afford the applicant the opportunity to learn from the qualified guardian ad litem how to effectively handle these cases. In addition, such an association provides the mentor guardian ad litem an opportunity to effectively measure the applicant’s progress in handling these cases.</p> <p>3. Demonstrate proficiency in the representation of children by submission of a required Nomination Certificate:</p> <ul style="list-style-type: none"> <li>(i) From one juvenile and domestic relations district court judge before whom the attorney has appeared in cases listed in B.2.a or B.2.b, or</li> <li>(ii) From a qualified guardian <i>ad litem</i> whom the applicant has assisted in two cases pursuant to B.2.b.</li> </ul> <p>4. File with the Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Richmond, Virginia, 23219, a letter which:</p> <ul style="list-style-type: none"> <li>a. Requests qualification as a guardian <i>ad litem</i>.</li> <li>b. States the applicant’s social security number.</li> <li>c. States the judicial districts in which the attorney wishes to accept appointments as a guardian <i>ad litem</i>.</li> <li>d. Includes the applicant’s written certification of compliance with paragraph B.2.a. or B.2.b. Such certification must specifically state the language of the paragraph B.2.a or B.2.b. Case information which identifies the parties is not required nor to be provided.</li> <li>e. If not previously submitted, includes a certificate of nomination as required by paragraph B.3.</li> <li>f. If not previously submitted, includes the required form certifying attendance at the MCLE continuing legal education program specified in Standard I.B.1.</li> </ul> <p>Upon successful completion of the requirements outlined in Standard I, the Office of the Executive Secretary, Supreme Court of Virginia, will provide the applicant attorney a date of qualification for purposes of completing the biennial continuing education requirements outlined in Standard II. Qualification dates provided are January 1, April 1, July 1 or October 1 of each year.</p>
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The names of applicants who meet these requirements will be included on a list of attorneys qualified as guardians *ad litem* to be published by the Office of the Executive Secretary, Supreme Court of Virginia, and distributed electronically to the juvenile and domestic relations district courts and circuit courts in the Commonwealth no less than monthly, on or.

## II. Continuing Education Requirements

To maintain good standing as a qualified guardian *ad litem*, an attorney shall comply with the continuing education requirements set out hereafter.

- A. Complete six hours of approved continuing education, biennially, on any topic related to the representation of children as a guardian *ad litem*. Continuing education credit for repeating the initial program, “Representation of Children as a Guardian *Ad Litem*” will be approved once within a six-year period. A maximum of six hours will be approved within a six-year period for programs designed especially for attorneys specializing in adoption.
- B. To receive credit for completing this biennial continuing education requirement, submit to the Office of the Executive Secretary, Supreme Court of Virginia, the required Certificate of Attendance form certifying attendance at the required program hours. Such certification may be submitted by mail, facsimile, or electronically.

### COMMENT:

#### Standard II.A.

The continuing education requirement of six hours every two years may be successfully fulfilled by attendance at a qualified MCLE approved program or any other non-MCLE approved program which assists an attorney in better representing children as a guardian *ad litem*. The goal is to permit attorneys to participate in interdisciplinary programs with other professions that also focus on serving children and families.

Examples of such programs include: training for Court Appointed Special Advocates (CASA); programs on domestic violence; programs on the “Psychiatric Treatment of Minors Act”; mental health programs on the effect of abuse, neglect, parental termination or divorce on a child; presentations on accessing school services or understanding school records and programs on special education; and programs on the availability of community resources, such as social services, financial assistance and youth centers.

## III. Removal from the List of Qualified Guardians *Ad Litem* for Children

- A. An attorney shall be removed from the list of qualified guardians *ad litem* under the following circumstances:
  - 1. Receipt of a request from the attorney, in writing, that the attorney’s name be removed from the list of qualified guardians *ad litem*.

	<p>2. Failure to complete the biennial continuing education requirements outlined in Standard II above.</p> <p>3. Suspension or revocation by the Virginia State Bar of the attorney’s license to practice law in the Commonwealth. Removal under this circumstance will occur upon the Executive Secretary receiving notice of such license suspension or revocation. If an attorney’s name is removed from the qualified list because of a license suspension and the attorney would like to again accept appointments as a guardian <i>ad litem</i>, the attorney must contact the Office of the Executive Secretary at the end of the license suspension term, request reinstatement in writing and complete the continuing education required by Standard III.B.</p> <p>B. An attorney removed from the list of qualified guardians <i>ad litem</i> pursuant to Standard III.A.1, Standard III.A.2 or Standard III.A.3, as it relates to a license suspension, must submit the following to the Office of the Executive Secretary to again be included on the list of attorneys eligible for appointment as a guardian <i>ad litem</i> in the Commonwealth:</p> <ol style="list-style-type: none"> <li>1. Within one year of being removed from the list, certification of attendance indicating the attorney completed the required six hours of approved continuing education and that such continuing education was completed within the past two years.</li> <li>2. If more than one year passes since removal from the list, certification of attendance indicating the attorney completed seven hours of approved continuing education and that such continuing education was completed within the past two years.</li> <li>3. If more than five years pass since removal from the list, the attorney shall complete the initial qualification process as outlined in Standard I above.</li> </ol> <p>Upon successful completion of the requirements of Standard III.B.1 or Standard III.B.2, the Office of the Executive Secretary, Supreme Court of Virginia, will provide the attorney a date of qualification for purposes of completing the biennial continuing education requirements outlined in Standard II. Qualification dates are January 1, April 1, July 1 or October 1 of each year. <a href="#">Standards to Govern the Appointment of Guardians Ad Litem</a></p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>Any statement submitted by an attorney for payments due him for indigent representation or for representation of a child pursuant to § <a href="#">16.1-266</a> shall, after the submission of the statement, be forwarded forthwith by the clerk to the Commonwealth, county, city or town, as the case may be, responsible for payment. <a href="#">VA Code § 19.2-163</a>.</p> <p>Compensation of appointed counsel.</p> <p>A. When the court appoints counsel to represent a child pursuant to subsection A of § <a href="#">16.1-266</a> and, after an investigation by the court services unit, finds that the parents are financially able to pay for the</p>

	attorney and refuse to do so, the court shall assess costs against the parents for such legal services in the maximum amount of that awarded the attorney by the court under the circumstances of the case, considering such factors as the ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount shall not exceed the maximum amount specified in subdivision 1 of § <a href="#">19.2-163</a> if the action is in district court. <a href="#">VA Code § 16.1-267</a>
10. Caseload Levels: Caseloads are of a manageable size	<i>No explicit legal authority or requirement.</i>