

DELAWARE	Legal Authority
<p>1. <i>General Duties:</i> <i>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.</i></p>	GENERAL DUTIES AND ACTIVITIES OF THE CHILD'S LEGAL REPRESENTATIVE
	<ul style="list-style-type: none"> - When a petition is filed [in a Department of Services for Children, Youth and Their Families (DSCYF)] proceeding, the Court shall appoint an attorney authorized to practice law in this State or a Court-Appointed Special Advocate to represent the best interests of the child. The Court, in its discretion, may also appoint an attorney to represent the child's wishes...When determining whether to appoint an attorney or Court-Appointed Special Advocate, the Court, in its discretion, should assign the most complex and serious cases to attorneys through the Office of the Child Advocate. 13 Del. C. § 2504(f). - In the event that the Family Court Judge determines...that an attorney guardian ad litem should be appointed, the Family Court Judge shall sign an order appointing the attorney guardian ad litem. That order shall impose on the attorney guardian ad litem all the duties, rights and responsibilities set forth in this section. Upon entry of the order, the attorney guardian ad litem shall have the authority to review all documents and interview all pertinent persons having significant information relating to the child and the child's life circumstances. 29 Del. C. § 9007A(b)(1). - [In addition to appointing an attorney to represent the best interests of the child], [t]he Court, in its discretion, may also appoint an attorney to represent the child's wishes. 13 Del. C. § 2504(f). - The appointment [of the attorney GAL] shall last until the attorney guardian ad litem is released from responsibility by order of the Court, or until the attorney guardian ad litem's commitment to the Court ends. 29 Del. C. § 9007A(b)(2). - The attorney guardian ad litem shall be a party to any child welfare proceeding in which the child is the subject, and shall possess all the procedural and substantive rights of a party. 29 Del. C. § 9007A(3). - The attorney guardian ad litem's duty is to the child. The scope of the representation of the child is the child's best interests. The attorney guardian ad litem shall have the duty of confidentiality to the child unless disclosure is necessary to protect the child's best interests. ... 29 Del. C. § 9007A(c). [T]he attorney guardian ad litem shall: <ul style="list-style-type: none"> (14) Ascertain the wishes of the child and make the child's wishes known to the Court. If the attorney guardian ad litem concludes that the child's wishes differ from the position of the attorney guardian ad litem, he or she will notify the Court of the conflict. 29 Del. C. § 9007A(c). - “When a client’s capacity to make adequately considered decision is connection with a representation is diminished, whether because of minority...the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.” Del. R. Prof. Cond. 1.14(a). - “When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.” Del. R. Prof. Cond. 1.14(b). - Upon presentation of the order of appointment by the attorney guardian ad litem, any agency, hospital, school, organization, division

	<p>or department of the State, doctor, nurse or other health care provider, treatment facility, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney guardian ad litem to inspect and copy any records relating to the child and parents involved in the case of appointment without consent of the child or parents. 29 Del. C. § 9007A(b)(4).</p> <p>- Establishment of CASA program within the Family Court...Program will include volunteers to serve as CASAs at the pleasure of the Chief Judge of the Family Court. The CASAs may be appointed in child welfare proceedings...as deemed appropriate by a Family Court Judge. 31 Del. C. § 3603(a), (d).</p> <p>- For the purposes of a CAPTA grant to the State...or any related state or federal legislation, the CASA shall be deemed a GAL to represent the best interests of the minor in proceedings before the Court. No bond shall be required from any CASA who serves as a GAL. 31 Del. C. § 3607.</p> <p>- In the event that the Family Court judge determines...that a CASA should be appointed, the Family Court judge shall sign an order appointing the CASA as guardian ad litem. That order shall impose on the CASA all the duties, rights and responsibilities set forth in this section. Upon entry of the order, the CASA shall have the authority to review all documents and interview all pertinent persons having significant information relating to the child and the child's life circumstances. 31 Del. C. § 3605(b).</p> <p>CASAs will have no associations which create a conflict of interest with their duties as CASAs 31 Del. C. § 3604(c).</p> <p>The appointment shall last until the CASA is released from responsibility by order of the Court, or until the CASA's commitment to the Court ends. 31 Del. C. § 3605(c).</p> <p>The CASA shall be a party to any child welfare proceeding or any other proceeding in which the CASA has been appointed in which the child is the subject, and shall possess all the procedural and substantive rights of a party. 31 Del. C. § 3605(d).</p> <p>- The CASA shall represent the best interests of the child in all child welfare proceedings.[and] ascertain the wishes of the child and make the child's wishes known to the Court. If the CASA concludes that the child's wishes differ from the position of the CASA, he or she will notify the Court of the conflict. 31 Del. C. § 3606(1), (12).</p>
<p>2. Out of Court - Actions to be Taken: <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements.</i></p>	<p>[T]he attorney guardian ad litem shall:</p> <p>(1) Represent the best interests of the child in all child welfare proceedings, and explain to the child, taking into account the child's ability to understand the proceedings, the duties of the guardian ad litem...</p> <p>(3) Conduct an independent investigation of the circumstances of a case of appointment, which shall include but not be limited to interviews and/or observations of the child and relevant individuals, as well as a review of all relevant records and reports;</p> <p>5) Participate in all depositions, negotiations, discovery, pretrial conferences, hearings and appeals... 29 Del. C. § 9007A(c).</p>
<p>3. In Court - Active Participation in Hearings: <i>Appear in court, explain</i></p>	<p>- The attorney guardian ad litem's duty is to the child. The scope of the representation of the child is the child's best interests. The attorney guardian ad litem shall have the duty of confidentiality to the child unless disclosure is necessary to protect the child's best interests. As such, the attorney guardian ad litem shall:</p>

<p><i>proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</i></p>	<p>(4) Present evidence to the Court in support of his or her position...</p> <p>(6) Participate in all depositions, negotiations, discovery, pretrial conferences, hearings and appeals...</p> <p>(8) Monitor cases to which they are appointed to assure that the terms of the Court's orders are fulfilled and permanency for the child is achieved...</p> <p>(11) Request a hearing before the Court when the plan on behalf of the child is not implemented, is not meeting the child's needs, or upon completion of a Division investigation;</p> <p>(12) Request any appropriate relief from the Court on behalf of the child;</p> <p>(13) Appear, when appropriate, on behalf of a child before the Violent Crimes Compensation Board, to pursue a claim on behalf of the child, as set forth in Chapter 90 of Title 11; 29 Del. C. § 9007A(c).</p> <p>- The CASA shall:</p> <p>(1) Represent the best interests of the child in all child welfare proceedings;</p> <p>(2) Provide independent, factual information to the Family Court regarding the cases to which he/she is appointed. To that end, the CASA shall conduct an independent investigation of the circumstances surrounding a case of appointment. This investigation shall include interviews and/or observations of the child and relevant individuals, as well as a review of all relevant records or reports;</p> <p>(3) Submit a written or oral report to the Court for any court proceeding...</p> <p>(5) Participate in all depositions, negotiations, discovery, pretrial conferences, hearings and appeals...</p> <p>(8) Monitor cases to which they are appointed to assure that the terms of the Court's orders are fulfilled and permanency for the child is achieved....</p> <p>(10) Request a hearing before the Court when the plan on behalf of the child is not implemented, is not meeting the child's needs, or upon completion of the investigation;</p> <p>(11) Request any appropriate relief from the Court on behalf of the child; and</p> <p>(12) Ascertain the wishes of the child and make the child's wishes known to the Court. If the CASA concludes that the child's wishes differ from the position of the CASA, he or she will notify the Court of the conflict. 31 Del. C. § 3606.</p>
<p>4. <i>Post-Hearing:</i> Review courts order, communicate order to child, and monitor implementation of orders.</p>	<p>[T]he attorney guardian ad litem shall:</p> <p>(8) Monitor cases to which they are appointed to assure that the terms of the Court's orders are fulfilled and permanency for the child is achieved...</p> <p>(11) Request a hearing before the Court when the plan on behalf of the child is not implemented, is not meeting the child's needs, or upon completion of a Division investigation;</p> <p>(12) Request any appropriate relief from the Court on behalf of the child. 29 Del. C. § 9007A(c).</p>
<p>5. <i>Appellate Advocacy:</i> Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>[T]he attorney guardian ad litem shall:</p> <p>5) Participate in all depositions, negotiations, discovery, pretrial conferences, hearings and appeals...</p>
<p>6. <i>Cessation of Representation:</i> Contacts</p>	<p><i>No explicit legal authority or requirement.</i></p>

<i>post representation, if any.</i>	
	Organizational and Administrative Supports Provided the Representative
7. General Representation <i>Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court.</i>	<ul style="list-style-type: none"> - In the event that the Family Court Judge determines...that an attorney guardian ad litem should be appointed, the Family Court Judge shall sign an order appointing the attorney guardian ad litem. That order shall impose on the attorney guardian ad litem all the duties, rights and responsibilities set forth in this section. Upon entry of the order, the attorney guardian ad litem shall have the authority to review all documents and interview all pertinent persons having significant information relating to the child and the child's life circumstances. 29 Del. C. § 9007A(b)(1). - The Office [of the Child Advocate] shall coordinate with the Family Court and the CASA program to implement and administer a program for GAL representation of children. 29 Del. C. § 9007A(a)(1). <p>Child's representative is independent of the court.</p>
8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i>	<ul style="list-style-type: none"> - The attorney GAL shall...be trained by the Office of the Child Advocate or a course approved by the Office prior to representing any child before the Court. The attorney guardian ad litem shall be required to participate in ongoing training regarding child welfare. 29 Del. C. § 9007A(c)(2). - CASAs must be willing to participate in a training course conducted by the Family Court and in ongoing training and supervision throughout their involvement in the program. 31 Del. C. § 3604(a). - The CASA program will include coordinators who will be members of the staff of the Family Court. The number and qualifications of coordinators will be established by the Chief Judge of the Family Court. The coordinators will be part of the Merit System. The coordinators will be responsible for the day-to-day operations of the program and will provide direct supervision to the Court-Appointed Special Advocates (CASA). 31 Del. C. § 3606(b). - The CASA program will include contract attorneys who will provide legal representation and advice for the CASAs and for the CASA Program. The program attorneys will be selected by the Chief Judge of the Family Court. 31 Del. C. § 3606(c).
9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i>	<i>No explicit legal authority or requirement.</i>
10. Caseload Levels: <i>Caseloads are of a manageable size.</i>	<i>No explicit legal authority or requirement.</i>

