

NEW HAMPSHIRE	Legal Authority
	GENERAL DUTIES AND ACTIVITIES OF THE CHILD'S LEGAL REPRESENTATIVE
<p>1. General Duties: <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>	<p>[RSA 169-C:10(I) requires that in every case brought pursuant to the Child Protection Act, the court shall appoint a GAL or CASA GAL. The court only appoints an attorney for the child if the child's expressed interests conflict with the recommendation for dispositional orders of the GAL or CASA GAL. In addition to the statutes, <i>System-wide Guardian Ad Litem Application, Certification and Practice</i> established by the New Hampshire Supreme Court, the Circuit Court's Family Division Rules, and the administrative rules of the GAL Board (adopted pursuant to RSA 490-C), the New Hampshire Court Improvement Project has established <i>Protocols Relative to Abuse and Neglect Cases and Permanency Planning</i>, which do not have the force of law and do not create substantive rights.]</p> <p>- I. In cases brought pursuant to this chapter involving a neglected or abused child, the court shall appoint a Court Appointed Special Advocate (CASA) or other approved program guardian ad litem for the child. If a CASA or other approved program guardian ad litem is unavailable for appointment, the court may then appoint an attorney or other guardian ad litem as the guardian ad litem for the child. The court shall not appoint an attorney for any guardian ad litem appointed for the child. The CASA or other approved program guardian ad litem shall have the same authority and access to information as any other guardian ad litem. For purposes of this paragraph, "unavailable for appointment" means that there is no CASA or other approved program guardian ad litem available for appointment by the court following a finding of reasonable cause at the preliminary hearing held under RSA 169-C:15 so that the child's interests may effectively be represented in preparation for and at an adjudicatory hearing.</p> <p>II. (a) In cases involving a neglected or abused child under this chapter, where the child's expressed interests conflict with the recommendation for dispositional orders of the guardian ad litem, the court may appoint an attorney to represent the interests of the child.</p> <p>(b) When an attorney is appointed as counsel for a child, representation may include counsel and investigative, expert and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child.</p> <p>III. The New Hampshire supreme court shall adopt rules regarding the duties and responsibilities of the CASA guardian ad litem or other guardian ad litem appointed for the child. RSA § 169-C:10.</p> <p>- Upon a finding of reasonable cause that the child is abused or neglected, the court shall:</p> <p>(a) Appoint a CASA or other approved program guardian ad litem or an attorney or other qualified guardian ad litem to represent the child pursuant to RSA 169-C:10.</p>

	<p>... RSA § 169-C:15(III).</p> <ul style="list-style-type: none"> - Immediately upon the filing of a petition, the clerk shall appoint a guardian ad litem (GAL) or court appointed special advocate (CASA GAL). The clerk shall: <ul style="list-style-type: none"> (1) determine whether a GAL or CASA GAL has been appointed for the child named in the petition for other purposes, including prior abuse or neglect cases involving this family; and, if so, shall appoint the same GAL or CASA GAL in the abuse and neglect case; (2) telephonically notify the GAL or CASA GAL program of the appointment; and (3) fax copies of all pertinent documents and pleadings to the GAL or CASA GAL program before the end of the business day on which the petition is filed. <i>Protocols Relative to Abuse and Neglect Cases and Permanency Planning</i> Ch. 2, Protocol 5. - The Guardian ad Litem shall be the representative for and of the best interest of the child or represented person. All rules, regulations, and standing orders of the superior, district, probate and family division courts shall ordinarily apply to Guardians ad Litem. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 2.2(a). - The Guardian ad Litem serves as an officer of the court and shall have such standing and make such accountability in the proceedings as the court deems appropriate. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 2.2(b). - Pursuant to RSA 169-C:10,II(a), in cases involving an abused or neglected child, where the child's expressed interests conflict with the recommendation for dispositional orders of the GAL or CASA GAL, the court may appoint an attorney to represent the interests of the child. <i>Protocols Relative to Abuse and Neglect Cases and Permanency Planning</i> Ch. 2, Protocol 6.
<p>2. Out of Court - Actions to be Taken: <i>Meet with child, undertake an investigation, provide advice and counseling,</i></p>	<ul style="list-style-type: none"> - A Guardian ad Litem shall not issue or obtain the issuance of a subpoena without good cause. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 2.4. - A Guardian ad Litem shall make no public statements relating to pending cases. System-wide Guardian Ad Litem

<p><i>file pleadings, request services, address special needs, negotiate settlements</i></p>	<p>Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 2.7(a).</p> <p>- C. Untimely-filed Guardian ad Litem Reports.</p> <p>(1) A guardian ad litem who, without good cause, fails to file a report required by any Court or statute by the date the report is due may be subject to a fine of not less than \$100 and not more than the amount of costs and attorneys fees incurred by the parties to the action for the day of the hearing. The guardian ad litem shall not be subject to the fine under this rule if, at least ten (10) days prior to the date the report is due, the GAL files a motion requesting an extension of time to file the report. <i>See</i> RSA 490:26-g.</p> <p>(2) The Clerk shall report to the Guardian ad Litem Board all guardians ad litem who fail to file a report by the date the report is due. However, the report shall clearly indicate all such guardians for whom the court has found good cause for the late filing. The Clerk shall make such report available to the public. N.H. Circuit Ct R, Family Division, R. 1.14(C).</p> <p>- Consistent with RSA 169-C:12-b, all reports, evaluations, and other records of DCYF, counselors and the GAL or CASA GAL shall be filed with the court and all other parties at least five (5) calendar days prior to any hearing. Distribution of psychological evaluations and reports should be carefully monitored by the court and access to review limited to the parties the court believes require the information to perform their official functions or representation of their client. The court should consider motions requesting in camera review with attorneys and the GAL or CASA GAL. <i>Protocols Relative to Abuse and Neglect Cases and Permanency Planning</i> Ch. 8, Protocol 3.</p> <p>- The child's Court Appointed Special Advocate (CASA), guardian ad litem (GAL), and/or attorney, shall consult in an age-appropriate manner with the child about the child's views of the proposed permanency plan and/or transition plan. The CASA, GAL or attorney shall report about the consultation to the court in writing and/or orally at a permanency hearing. Such consultation shall not preclude the child, at the child's own request or the request of the Court, from attending and/or being heard at a permanency hearing. N.H. Circuit Ct R, Family Division, R. 4.5.</p> <p>- (a) Unless otherwise specified in an order or other instruction of the appointing court, a guardian ad litem shall at all times act in what he or she, in good faith, believes to be in the best interests of the recipient of services.</p> <p>(b) A guardian ad litem shall reach an independent conclusion about what is in the best interest of the recipient of services or such other matter as may be required by the orders or instructions of the appointing court.</p>
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- (c) A guardian ad litem shall perform those duties assigned to him or her by the appointing court.
- (d) A guardian ad litem shall, in good faith:
- (1) Formulate a recommendation, or such other report as is directed by the appointing court, as is intended to address the best interests of the recipient of services or such other matter as directed by the orders or other instructions of the appointing court; and
 - (2) Develop a presentation to the court that is designed to achieve results that are in the best interests of the recipient of services or such other result as set forth in the orders or other instructions of the appointing court.
- (e) A guardian ad litem who believes that he or she is deficient in skill or knowledge regarding a material issue in a case shall take such action as he or she, in good faith, believes:
- (1) Will enable him or her to obtain such skill or knowledge; and
 - (2) Is consistent with the best interests of the recipient of services.
- (f) A guardian ad litem shall seek to enlist the assistance of a person or persons that the guardian ad litem believes, in good faith, possesses skill and knowledge relative to a material issue if the guardian ad litem believes that to do so is necessary under paragraph (e) above.
- (g) If a guardian ad litem believes, in good faith, that there is no action that will enable him or her to obtain the skill or knowledge necessary under paragraph (e) above, the guardian ad litem shall so advise the appointing court.
- (h) A guardian ad litem shall comply with all statutes and case law relating to the duties and activities of, and the procedures applicable to, guardians ad litem in general and to the duties and activities of, and procedures applicable to, guardians ad litem in the particular type of case to which he or she has been appointed.
- (i) A guardian ad litem shall be able to identify the material legal and factual issues raised in the proceeding in which he or she serves.
- (j) A guardian ad litem shall make those reports required by the Child Protection Act, RSA 169-C:29.
- (k) A guardian ad litem shall make those reports required by RSA 161-F: 46. [N.H. Code Admin. R. Gal 503.02.](#)
- Competency.
- (a) A guardian ad litem shall carry out the duties of his or her appointment with sufficient competence to complete the work without avoidable harm to the best interests of the recipient of services.
- (b) The competence required by (a) above shall include:
- (1) Diligence, attention to detail and promptness in the scheduling and performance of the duties of the appointment;
 - (2) Preparation for the meetings, interviews and court appearances required by the appointment;
 - (3) Knowledge of the New Hampshire statutory and case law applicable to the duties of a guardian ad litem in the type of case to which he or she has been appointed;

	<p>(4) Knowledge of these rules; and</p> <p>(5) Knowledge of the procedures and requirements of the appointing court sufficient to carry out the duties of the appointment. N.H. Code Admin. R. Gal 503.04.</p> <p>- <u>Advocacy.</u></p> <p>(a) A guardian ad litem shall not adopt or assert a position, or make a recommendation, unless he or she possesses a basis for doing so that is not frivolous.</p> <p>(b) A position adopted or asserted under (a) above may include a good faith argument for the extension, modification, or reversal of existing law.</p> <p>(c) A guardian ad litem shall endeavor to expedite the conclusion of the case to the extent that he or she, in good faith, believes that to do so is consistent with the best interests of the recipient of services or such other purpose of his or her appointment as is set forth in the orders or other instructions of the appointing court. N.H. Code Admin. R. Gal 503.05.</p> <p><i>There are no explicit requirements for children's attorneys.</i></p>
<p>3. In Court - Active Participation in Hearings: <i>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.</i></p>	<p>- The following people should be present, if possible, at the preliminary hearing; however, their inability to attend the hearing should not delay the hearing:</p> <p>(1) attorney for the accused parent;</p> <p>(2) attorney for DCYF;</p> <p>(3) GAL or CASA GAL; and</p> <p>(4) parent's mental health provider, if applicable and appropriate. <i>Protocols Relative to Abuse and Neglect Cases and Permanency Planning</i> Ch. 5, Protocol 5.</p> <p>- The Guardian ad Litem may be called as a witness in the proceeding by either party or at the request of the court. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 2.3(a).</p> <p>- The parties may agree to accept the Guardian ad Litem's report and to limit a Guardian ad Litem's role so that the Guardian ad Litem may not be called as a witness except upon order of the court. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 2.3(b).</p> <p>- A guardian ad litem shall:</p> <p>...</p> <p>(b) Adhere to all applicable deadlines imposed by an appointing court or by statute;</p>

	<p>(c) Timely appear for all scheduled hearings, conferences, mediation sessions and other court proceedings, unless excused by the court; and</p> <p>(d) Timely appear for all appointments with a recipient of services, witness, attorneys or other individual involved in a case to which a guardian ad litem has been appointed, unless:</p> <p>(1) Alternative arrangements have been made in advance of the time scheduled for an appointment; or</p> <p>(2) The inability to timely appear for the appointment is due to circumstances beyond the control of the guardian ad litem and the reasons for the inability to appear are conveyed as soon as is practicable to the person with whom the appointment was made. N.H. Code Admin. R. Gal 503.03.</p> <p><i>There are no explicit requirements for children's attorneys.</i></p>
4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders.	No explicit legal authority or requirement.
5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.	<p>- Pursuant to RSA 169-C:28, an appeal from the district court or family division may be taken to the superior court within thirty (30) calendar days of the final dispositional order. A final dispositional order includes the following:</p> <p>(1) a dismissal of a petition for abuse or neglect by the court; or</p> <p>(2) any ruling or order arising from an administrative hearing held or initiated by any administrative agency, including the department, in which a finding of child abuse or neglect is made.</p> <p>The superior court shall hear the matter de novo, and shall give an appeal under RSA 169-C priority on the court calendar. <i>Protocols Relative to Abuse and Neglect Cases and Permanency Planning</i> Ch. 9, Protocol 1.</p> <p>- An appeal, pursuant to RSA 169-C:28, may be made by:</p> <p>(1) the child or his/her authorized representative;</p> <p>(2) any party having an interest, including the State; or</p> <p>(3) any person subject to an administrative decision pursuant to RSA 169-C. <i>Protocols Relative to Abuse and Neglect Cases and Permanency Planning</i> Ch. 9, Protocol 2.</p> <p>- (a) In the event that either party to an action shall appeal the decision of the Master or of a Justice to the Supreme Court, the Guardian ad Litem may, in his/her discretion or upon order of the court, participate in said appeal if it is determined by the Guardian ad Litem, Master or Justice that the issues appealed substantially affect the child or</p>

	<p>represented person.</p> <p>(b) The Guardian ad Litem may initiate an appeal to the Supreme Court on behalf of the child or represented person in the event that the Guardian ad Litem shall determine that issues exist which are adverse to the child or represented person and which substantially affect the child's or represented person's interests.</p> <p>(c) In the event of an appeal by other parties to the action, the Guardian ad Litem should examine the Notice of Appeal to determine if issues exist which may require that a brief be filed by the Guardian ad Litem. If such issues exist, the Guardian ad Litem shall promptly file a motion seeking leave of the Supreme Court to file the brief after the Guardian ad Litem has had sufficient time to examine the briefs of both parties. A specific period of time shall be specified in the motion.</p> <p>(d) The Guardian ad Litem may participate in any appeal even though the Guardian ad Litem may have been called upon to testify in underlying hearings. Counsel will not be retained to represent the Guardian ad Litem on appeal except upon approval of the trial court upon petition by the Guardian ad Litem. The Justice ruling upon the petition may establish any conditions he/she may deem appropriate and will determine chargeability for additional counsel fees.</p> <p>(e) The fees of the Guardian ad Litem upon appeal shall be paid in accordance with the ruling set forth in the underlying action, unless upon request of any party, the trial court shall order otherwise. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 3.1.</p> <p><i>There are no explicit requirements for children's attorneys.</i></p>
<p>6. Cessation of Representation: <i>Contacts post representation, if any.</i></p>	<p>- The Guardian ad Litem serves at the pleasure of the court. The Guardian ad Litem's appointment may be terminated at any time. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 2.1(a).</p> <p>- Termination of Representation.</p> <p>(a) Upon the termination of a guardian ad litem's appointment, the guardian ad litem shall take such steps as he or she in good faith believes are necessary to protect the best interests of the recipient of services.</p> <p>(b) The steps described in (a) above shall include, but not be limited to, the following:</p> <ol style="list-style-type: none"> (1) Surrendering papers and property to which the recipient of services, the parties or the court may be entitled; (2) Refunding and transferring any unearned fees; and (3) To the extent possible, taking action in a sufficiently timely manner as to allow time for appointment of another guardian ad litem. N.H. Code Admin. R. Gal 503.15.

	<i>There are no explicit requirements for children's attorneys.</i>
	Organizational and Administrative Supports for the Child Representative
7. General Representation Rules: <i>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"> - The New Hampshire supreme court shall adopt rules regarding the duties and responsibilities of the CASA guardian ad litem or other guardian ad litem appointed for the child. RSA § 169-C:10(III). - Court Appointed Special Advocates (CASA) of New Hampshire shall be accountable to the guardian ad litem board for complying with the training requirements established by the board under RSA 490-C:5, I(d) and for the actions of its volunteer members who are appointed by the court as guardians ad litem. RSA § 490-C:6. - The following rules are established pursuant to the supreme court rulemaking authority under the New Hampshire Constitution, part II, article 73-a and the authority conferred under RSA 490:26-e. The court incorporates hereby by reference the rules adopted by the New Hampshire Guardian Ad Litem Board pursuant to RSA chapter 490-C in regard to the certification, qualifications, training, standards, oversight and decertification of Guardians ad Litem. References to the district court shall be deemed to include the circuit court – district division; references to the probate court shall be deemed to include the circuit court – probate division; and references to the judicial branch family division shall be deemed to include the circuit court – family division. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 1.1.
8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i>	<ul style="list-style-type: none"> - Except in special circumstances as determined by the court, no person shall be appointed as a Guardian ad Litem unless he or she is certified by the New Hampshire Guardian ad Litem Board. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 1.2; N.H. Circuit Ct R, Family Division, R. 1.14(B)(2). <p><i>There are no explicit requirements for children's attorneys.</i></p> <ul style="list-style-type: none"> - I. To be eligible for initial certification, recertification, reinstatement, or renewal of certification, as a guardian ad litem under this chapter, an applicant shall be of good character and shall meet such criteria or requirements as may be established by the board. <li style="padding-left: 40px;">II. Certification issued by the board shall be valid for 3 years from the date of issuance, and shall expire 3 years from the date of issuance, unless renewed or reissued pursuant to rules adopted by, and upon payment of fees

established in, the rules of the board.

III. If timely and sufficient application has been made in accordance with board rules for renewal of certification, the existing certification shall not expire until the board has taken final action on the application for renewal.

IV. Conditional or temporary certification as a guardian ad litem under this chapter shall be according to such criteria, terms, requirements, and procedures, and for such duration, as may be established by the board. [RSA § 490-C:5-a.](#)

- Requirements for Certification. An applicant for certification shall:

(a) Submit a fully completed original and 3 copies of an application form, a fully completed original and 3 copies of a supplemental application form, actual payment of the amount of the required certification fee and all required supporting documentation, including but not limited to the check referred to in Gal 302.04 (c);

(b) Submit any additional information required under Gal 302.01 (c) and (d);

(c) Hold either:

(1) A bachelor's degree from an accredited college or university plus at least 3 years of experience in professional or volunteer activities dealing with children or incapacitated adults, consisting of at least 200 hours of experience in each of the 3 years;

(2) An associate's degree from an accredited college or university plus at least 5 years of experience in professional or volunteer activities dealing with children or incapacitated adults, consisting of at least 200 hours of experience in each of the 5 years; or

(3) An advanced degree from an accredited college or university beyond a bachelor's degree, for which a bachelor's degree is a prerequisite, plus at least one year of experience in professional or volunteer activities dealing with children or incapacitated adults, consisting of at least 200 hours of experience in that year;

(d) Be at least 25 years of age;

(e) Never have been convicted of or pleaded guilty to any felony in any jurisdiction which has not been reversed or overturned on appeal or annulled;

(f) Never have been convicted of or pleaded guilty to:

(1) Any misdemeanor in any jurisdiction involving a child or incapacitated adult as a victim or, in the case of offenses involving attempt, conspiracy, or solicitation, as the intended victim, which has not been reversed or overturned on appeal or annulled;

- (2) Any misdemeanor involving domestic violence as defined in RSA 173-B:1, IX, as further specified in RSA 173-B: 1, I so as to include either commission or attempted commission of an offense, which has not been reversed or overturned on appeal or annulled;
- (3) Solicitation or conspiracy to commit a misdemeanor involving domestic violence under (2) above, which has not been reversed or overturned on appeal or annulled;
- (4) Any misdemeanor committed contrary to the law of a jurisdiction other than the state of New Hampshire which would constitute domestic violence, as described under (a) (2) above, or, solicitation or conspiracy to commit that offense, if committed in, or charged by, the state of New Hampshire, which has not been reversed or overturned on appeal or annulled;
- (5) Any misdemeanor which has not been reversed or overturned on appeal or annulled arising under:
...
- (6) Any misdemeanor involving an attempt, conspiracy or solicitation to commit those offenses listed in subparagraph (5) above which has not been reversed or overturned on appeal or annulled; or
- (7) More than 2 misdemeanors of any type, regardless of the jurisdiction in which they arose, that have not been reversed or overturned on appeal or annulled;
- (g) Not currently be an individual listed on the central registry of founded abuse and neglect reports, nor ever have been the subject of a founded report of child abuse or neglect in this or any other jurisdiction;
- (h) Be of good character;
- (i) Never have been suspended from any activity as a guardian ad litem in any jurisdiction other than New Hampshire as the result of misconduct in the performance of his or her duties as a guardian ad litem, or as the result of a failure to be of good character, unless such suspension was reversed or overturned on appeal;
- (j) Never have had any certification, registration, approval or appointment as a guardian ad litem revoked as the result of misconduct in the performance of his or her duties as a guardian ad litem, or as the result of a failure to be of good character, in any jurisdiction other than New Hampshire, unless such revocation was reversed or the certification was reinstated, or unless the revocation was overturned on appeal;
- (k) Never have had any certification, registration, approval or appointment as a guardian ad litem revoked in New Hampshire, by an entity other than board, under the circumstances described in (j) above;
- (l) If presently or formerly authorized to practice as an attorney in this or any other jurisdiction, never have been disbarred;

- (m) Have completed the guardian ad litem training requirements specified in Gal 303.02 below;
- (n) Be recommended for certification as a guardian ad litem by three individuals, as described in Gal 302.04 (f), in the manner described in Gal 302.05;
- (o) Not have provided a positive answer to the question on the supplemental application form described in Gal 302.03 (l);
- (p) Never have had his or her application for license, certification, registration, or approval to practice as a guardian ad litem denied in any jurisdiction other than New Hampshire on any basis that would constitute grounds for a denial of certification under RSA 490-C or the rules of the board, unless that denial was reversed, overturned on appeal or the ground for denial was subsequently superceded by the granting of an application;
- (q) Possess a current telephone number;
- (r) Be able to clearly, succinctly and understandably articulate thoughts in writing as demonstrated by the person's application, including the written submission required by Gal 302.04 (e); and
- (s) Have access to reliable transportation. [N.H. Code Admin. R. Gal 303.01.](#)

- Training Requirements.

- (a) An applicant for initial certification as a guardian ad litem shall complete the following training
 - (1) A course of general guardian ad litem training as specified in (b) below, completed within the 3 years prior to the submission of the material specified in Gal 302.01 (b) and taken after January 1, 2004; and
 - (2) At least one course of area-specific guardian ad litem training as set forth in (c) below, completed within the 3 years prior to the submission of the material specified in Gal 302.01 (b) and taken after January 1, 2004.
- (b) General guardian ad litem training shall consist of a single course of study of at least 16 hours of training commissioned by the board under RSA 490-C:4, or offered by the board, that:
 - (1) Encompasses instruction in at least the following areas:
 - a. An overview of the role of guardians ad litem in New Hampshire;
 - b. The composition and duties of the guardian ad litem board;
 - c. Guardian ad litem training requirements, the guardian ad litem certification application process and complaint processes relative to guardians ad litem in New Hampshire;
 - d. The standards of practice, court rules, guidelines, codes of ethics, administrative rules and statutes applicable to guardians ad litem in New Hampshire;

- e. The dynamics of family groups, including but not limited to the broad range of ways in which families of different social, cultural and economic backgrounds may meet the needs of children;
- f. Professionalism in guardian ad litem practice, the professional roles of other individuals involved in cases in New Hampshire in which a guardian ad litem may be involved and the scope and limits of guardian ad litem practice;
- g. The liabilities and immunities applicable to guardians ad litem in New Hampshire;-
- h. Techniques and strategies for the gathering of complete and reliable information regarding issues within the scope of the guardian ad litem's appointment;
- i. The resources available to the parties from the state or from private agencies to address issues that may arise in cases in which guardians ad litem may be appointed; and
- j. Billing; and

(2) Includes in-court training consisting of at least 4 hours of observation of, or participation in, a court case, or in court cases, involving a child or children or an incapacitated adult or incapacitated adults, except as a party.

(c) Area-specific guardian ad litem training shall consist of a single course of study commissioned by the board under RSA 490-C:4, or offered by the board, as encompassing either:

(1) At least 12 hours of training on issues relating to matters traditionally handled by guardians ad litem in the district courts of the state of New Hampshire that covers at least the following topics:

a. Abuse and neglect cases, including training at a minimum on:

1. A general overview of the statutes, case law, court rules and administrative orders relating to abuse and neglect cases in district court and the New Hampshire judicial branch family division including, but not limited to, the New Hampshire Protocols Relative to Abuse and Neglect Cases and Permanency Planning;
2. A general overview of the statutes, case law, court rules and administrative orders relating to guardian ad litem practice in abuse and neglect cases in district court and the New Hampshire judicial branch family division, including, but not limited to, the New Hampshire Protocols Relative to Abuse and Neglect Cases and Permanency Planning;
3. The ethical standards and standards of practice established by the rules of the board that are applicable to guardians ad litem practicing in the context of cases involving abuse and neglect;
4. The Adoption and Safe Families Act of 1997, 42 U.S.C. Secs. 670-679 and permanency hearings;
5. RSA 170-C relative to termination of parental rights, the Child Protection Act found at RSA 169-C, and New Hampshire case law relating to these acts;
6. The effects of child abuse and neglect on child development, the diagnoses of children and treatment options for

abused and neglected children;

7. The legal lines between abuse and non-abuse and neglect and non-neglect;
8. The rights and responsibilities of parties;
9. Report writing and investigations in abuse and neglect cases; and
10. The operations and procedures of the state department of health and human services, division of children youth and families and the services available from that agency; and

b. Cases involving children in need of services and delinquent children, including training at a minimum on:

1. A general overview of the statutes, case law and court rules relating to children in need of services and delinquent children in district court and the New Hampshire judicial branch family division;
2. A general overview of the statutes, case law and court rules relating to guardian ad litem practice in cases involving children in need of services and delinquent children in district court and the New Hampshire judicial branch family division;
3. The ethical standards and standards of practice established by the board that are applicable to guardians ad litem practicing in the context of cases involving children in need of services and delinquent children;
4. Issues impacting upon children in need of services and delinquent children, including but not limited to an overview of child development, mental health and disability issues, substance abuse, domestic violence, special education and child abuse and neglect;
5. Case disposition and the state and community resources available to assist in addressing cases involving children in need of services and delinquency matters; and
6. Report writing and investigations in cases involving children in need of services and delinquent children; and

c. The mental health and developmental services system in New Hampshire, the obligations of school districts and the division of children youth and families of the state department of health and human services, individual rights under RSA 186-C and the Individuals with Disabilities Education Act, 20 U.S.C., Chapter 33, and the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 794 – 794a, the Americans with Disabilities Act, 42 U.S.C. Chapter 126, and RSA 354-A; or

(2) At least 8 hours of training on issues relating to matters traditionally handled by guardians ad litem in the New Hampshire superior court, that covers at least the following topics:

- a. A general overview of the statutes, case law and court rules relating to the types of cases to which a guardian ad litem may be appointed in superior court and the New Hampshire judicial branch family division, including but not limited to those laws which relate to custody, parental rights and responsibilities, paternity and domestic violence
- b. A general overview of the statutes, case law and court rules relating to guardian ad litem practice in superior court and the New Hampshire judicial branch family division;

- c. The ethical standards and standards of practice established by the rules of the board that are applicable to guardians ad litem practicing in the context of cases heard in superior court and the New Hampshire judicial branch family division;
 - d. An overview of superior court procedures, practices and programs, as well as the rules of the superior court and the New Hampshire judicial branch family division;
 - e. The role of guardians ad litem in superior court proceedings, including but not limited to the duties of guardians ad litem regarding review of the appointment order, the guardian ad litem's role as a participant in temporary hearings, conferences and mediation sessions and the guardian ad litem's post-hearing obligations;
 - f. The role of guardians ad litem in dealing with witnesses and victims;
 - g. Report writing and investigations in cases heard in superior court; and
 - h. An overview of related topics, including but not limited to the representation of the interests of minors or incapacitated victims and the criminal law in areas that may impact upon the practice of a guardian ad litem in superior court and the New Hampshire judicial branch family division; or
- (3) At least 8 hours of training on issues relating to matters traditionally handled by guardians ad litem in the New Hampshire probate court, that covers at least the following topics:
- a. A general overview of the statutes, case law and court rules relating to the types of cases to which a guardian ad litem may be appointed in probate court, including but not limited to those laws relating to the termination of parental rights, and the guardianship and estates of minors and incapacitated adults;
 - b. A general overview of the statutes, case law and court rules relating to guardian ad litem practice in probate court and the New Hampshire judicial branch family division;
 - c. The ethical standards and standards of practice established by the rules of the board that are applicable to guardians ad litem practicing in the context of cases heard in probate court and the New Hampshire judicial branch family division;
 - d. An overview of probate court procedures, practices and programs, as well as the substantive and procedural rules of the probate court and the New Hampshire judicial branch family division;
 - e. The role of guardians ad litem in probate court including but not limited to the duties of guardians ad litem regarding review of the appointment order, the guardian ad litem's role as a participant in hearings and the guardian ad litem's post-hearing obligations;
 - f. Report writing and investigations in cases heard in the probate court and the New Hampshire judicial branch family division;
 - g. The operations and procedures of the state department of health and human services, division of children youth and families and the services available from that agency; and
 - h. The mental health and developmental services system in New Hampshire, the obligations of school districts and

	<p>the division of children youth and families of the state department of health and human services, individual rights under RSA 186-C and the Individuals with Disabilities Education Act, 20 U.S.C., Chapter 33, and the requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 794 – 794a, the Americans with Disabilities Act, 42 U.S.C. Chapter 126, and RSA 354-A. N.H. Code Admin. R. Gal 303.02.</p>
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>- I. Unless otherwise provided by law, whenever a guardian ad litem is appointed or ancillary services are approved pursuant to statutory authority or court order and the responsible party or parents are indigent, the state of New Hampshire shall be responsible for compensation for such services from the general fund.</p> <p>II. Notwithstanding other provisions of law to the contrary, the state, by the judicial council, may contract with any person qualified under the supreme court rules to provide guardian ad litem, ancillary, or legal services pursuant to statutory authority or court order, or with any organization approved by the supreme court to provide guardian ad litem, ancillary, or legal services. No such contract shall be effective for longer than 2 years.</p> <p>III. Any guardian ad litem or guardian ad litem program shall be subject to supreme court competence and performance regulations.</p> <p>IV. Notwithstanding other provisions of law to the contrary, the supreme court and executive departments statutorily responsible for compensation of guardian ad litem, ancillary, or legal services, when the responsible party or parents are indigent or the court otherwise appoints a guardian ad litem or such attorney, are authorized to effectuate budgetary transfer of funds appropriated for such services between and among themselves as they deem necessary.</p> <p>V. The executive director of the judicial council, the commissioner of the department of health and human services, or the judicial branch, as may be appropriate, may authorize payments to such persons or organizations provided for under this section. RSA § 490-26-f.</p> <p>- (e) The fees of the Guardian ad Litem upon appeal shall be paid in accordance with the ruling set forth in the underlying action, unless upon request of any party, the trial court shall order otherwise. System-wide Guardian Ad Litem Application, Certification and Practice, established by the Supreme Court of New Hampshire, R 3.1.</p> <p>- <u>Fees.</u></p> <p>(a) A guardian ad litem appointed by a court and paid by public funds shall not accept any additional payment from any party or other source for services performed on the case, unless otherwise authorized by the court, provided, nonetheless, that a guardian ad litem who has been served with a subpoena may accept a witness or mileage fee authorized by statute, court rule or other law for appearance pursuant to a subpoena.</p> <p>(b) If a guardian ad litem in any publicly-funded case files any motion to exceed any cap or limit on fees, the</p>

guardian ad litem shall, at or before the time of filing, provide a copy of the motion to the person or persons who may be responsible for the reimbursement of the public funds.

(c) In the case of a private fee arrangement relating to the services of a guardian ad litem, the guardian ad litem shall:

(1) Execute with the responsible parties or party an agreement in writing regarding fees and expenses which specifies:

- a. The person or persons responsible for payment;
- b. The amount of the rate to be charged;
- c. The method for calculating the fees and expenses billed; and
- d. Either:
 1. An estimate of the cost of anticipated expenses and services expected to be performed; or
 2. A specific amount to be charged which will not be exceeded absent an order of the court;

(2) Specify in any agreement in writing under (c) (1) above either:

- a. The allocation of responsibility for payment between or among the parties; or
- b. That the designation or allocation of responsibility for payment may be made by the court and that the court's order relative to payment shall be binding; and

(3) Provide a copy of the agreement in writing described in (c) (1) above to all parties to the agreement.

(d) In the case of a private fee agreement where it is necessary for the guardian ad litem, in order to fulfill his or her obligations, to charge fees in excess of the estimated cost of anticipated expenses and services, or in excess of the specified amount, originally stated under (c) (1) d. above, the guardian ad litem shall:

(1) Provide, in writing, to the party or parties responsible for payment either:

- a. An adjusted written estimate of the cost of anticipated expenses and services expected to be performed; or
- b. A new specific amount to be charged which will not be exceeded absent an order of the court;

(2) File a motion with the appointing court requesting authorization to charge a specific amount in excess of the initial fee agreement, specifying therein:

- a. The amount of the original estimate or specification;
- b. The specific amount in excess of the original estimate or specification that the guardian ad litem wishes to charge and the reason for the adjustment; and
- c. A statement as to whether or not each of the responsible party or parties consents to the motion; and

(3) Provide a copy of the motion to the person or persons who is or may be responsible for the payment of any

	<p>fee or cost, at or before the time of the filing of the motion identified in (d) (2) above.</p> <p>(e) In the case of a private fee agreement that has once been altered under paragraph (d) above in which it is necessary for the guardian ad litem, in order to fulfill his or her obligations, to again exceed any amended amount, the guardian ad litem shall proceed in accordance with paragraph (d) above as to any further agreement.</p> <p>(f) If, at the conclusion of a case, the guardian ad litem is in possession of any unearned fees, he or she shall return those fees to the person who paid them to the guardian ad litem, or in such other manner as that person or the fee agreement may direct.</p> <p>(g) A guardian ad litem shall not enter into any contingent fee agreement for his or her services. N.H. Code Admin. R. Gal 503.11.</p>
<p>10. Caseload Levels: <i>Caseloads are of a manageable size.</i></p>	<p><i>No explicit legal authority or requirement.</i></p>