

NORTH CAROLINA	Legal Authority
<p>1. <b>General Duties:</b>  <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 style="text-align: center;"><b>GENERAL DUTIES AND ACTIVITIES OF THE CHILD'S LEGAL REPRESENTATIVE</b></p> <p>- When in a petition a juvenile is alleged to be abused or neglected, the court shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the court may appoint a guardian ad litem to represent the juvenile. <a href="#">Gen. Stat. § 7B-601(a)</a>; <a href="#">GAL Attorney Manual, Ch. 1, § 1.1.</a></p> <p>- The appointment shall be made pursuant to the program established by Article 12 of this Chapter unless representation is otherwise provided pursuant to <a href="#">G.S. 7B-1202</a> or <a href="#">G.S. 7B-1203</a>. The appointment shall terminate when the permanent plan has been achieved for the juvenile and approved by the court. The court may reappoint the guardian ad litem pursuant to a showing of good cause upon motion of any party, including the guardian ad litem, or of the court. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the juvenile's legal rights throughout the proceeding. The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; to conduct follow-up investigations to insure that the orders of the court are being properly executed; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court. <a href="#">Gen. Stat. § 7B-601(a)</a>.</p> <p>- The guardian ad litem has the authority to obtain any information or reports, whether or not confidential, that may in the guardian ad litem's opinion be relevant to the case. No privilege other than the attorney-client privilege may be invoked to prevent the guardian ad litem and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian ad litem, and no disclosure of any information or reports shall be made to anyone except by order of the court or unless otherwise provided by law. <a href="#">Gen. Stat. § 7B-601(c)</a>.</p> <p>- (a) The court shall conduct a pretrial hearing. However, the court may combine the pretrial hearing with the adjudicatory hearing on termination in which case no separate pretrial hearing order is required. At the pretrial hearing, the court shall consider the following:</p> <p>(1) Retention or release of provisional counsel.</p>

	<p>(2) Whether a guardian ad litem should be appointed for the juvenile, if not previously appointed... <a href="#">Gen. Stat. § 7B-1108.1(a)</a>.</p> <ul style="list-style-type: none"> <li>- If an answer or response denies any material allegation of the petition or motion, the court shall appoint a guardian ad litem for the juvenile to represent the best interests of the juvenile, unless the petition or motion was filed by the guardian ad litem pursuant to <a href="#">G.S. 7B-1103</a>, or a guardian ad litem has already been appointed pursuant to <a href="#">G.S. 7B-601</a>. A licensed attorney shall be appointed to assist those guardians ad litem who are not attorneys licensed to practice in North Carolina. The appointment, duties, and payment of the guardian ad litem shall be the same as in <a href="#">G.S. 7B-601</a> and <a href="#">G.S. 7B-603</a>, but in no event shall a guardian ad litem who is trained and supervised by the guardian ad litem program be appointed to any case unless the juvenile is or has been the subject of a petition for abuse, neglect, or dependency or with good cause shown the local guardian ad litem program consents to the appointment. <a href="#">Gen. Stat. § 7B-1108(b)</a>.</li> <li>- In proceedings under this Article, the appointment of a guardian ad litem shall not be required except, as provided above, in cases in which an answer or response is filed denying material allegations, or as required under <a href="#">G.S. 7B-1101</a>; but the court may, in its discretion, appoint a guardian ad litem for a juvenile, either before or after determining the existence of grounds for termination of parental rights, in order to assist the court in determining the best interests of the juvenile. <a href="#">Gen. Stat. § 7B-1108(c)</a>.</li> <li>- A prehearing conference may be required in some districts (and is recommended prior to all hearings), and negotiating for a consent order occurs at this stage. This is the stage at which the GAL volunteer does the bulk of the investigative work to prepare for adjudication and disposition. During the pre-adjudication stage, attorneys involved in the case deal with the legal matters surrounding the petition and summons, jurisdiction and venue, as well as pretrial motions. Everyone involved will deal with issues of confidentiality and discovery in this and all stages of the case. <a href="#">GAL Attorney Manual, Ch. 1, § 1.1</a>.</li> </ul>
<p><b>2. Out of Court - Actions to be Taken:</b> <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate</i></p>	<ul style="list-style-type: none"> <li>- The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; to conduct follow-up investigations to insure that the orders of the court are being properly executed; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court. <a href="#">Gen. Stat. § 7B-601(a)</a>.</li> </ul>

*settlements*

- Unless provided otherwise by local rules, information or reports obtained by the guardian ad litem pursuant to G.S. 7B-601 are not subject to disclosure pursuant to this subsection, except that reports and records shall be shared with all parties before submission to the court. [Gen. Stat. § 7B-700\(f\)](#).

- Once the GAL and AA are appointed and the AA receives the file, the AA may take immediate action in the case:  
1. Begin conversations with GAL staff and GAL volunteer to obtain any additional information about the case. The AA must talk to the volunteer and staff to gather information about the case. [See “The Attorney Advocate’s Role and Relationship with the Volunteer” in § 8.5 of this manual.] The summons, petition, other court documents, and even the GAL court report will not contain all of the information the AA needs to know. To get complete information, the AA needs to begin conversations with the volunteer and staff and continue those conversations throughout the course of the proceedings.

2. Review petition for legal defects and factual inaccuracies. Once some preliminary investigation has occurred and the results are conveyed to the attorney, the petition must also be reviewed for factual and legal accuracy. For example, juvenile petitions must be verified or the court does not obtain subject matter jurisdiction. (See E. *infra*) If the AA believes there could be defects or inaccuracies, the AA should alert the DSS attorney. (Also see subsection D, below, on Answers, Amendments, and Dismissals by DSS.) [GAL Attorney Manual, Ch. 1, § 1.3B](#).

- If DSS chooses voluntary placement and files a petition, the GAL should begin an independent investigation to determine the appropriateness of the agreed-upon placement. If the GAL considers a nonsecure custody order more appropriate or the placement contrary to the juvenile’s best interest, the GAL can seek to obtain a nonsecure custody order. [GAL Attorney Manual, Ch. 1, § 1.6D](#).

- If possible, the AA can attempt to determine the position of DSS and of the parents concerning nonsecure custody. If the parents and GAL agree, a consent order may be obtained for waiver of the nonsecure custody hearing (except for initial hearing) but the court may require additional consent or schedule the hearing anyway. If there is no consent, the AA must assess whether he or she will need to present evidence at the nonsecure custody hearing, which will depend on the positions taken by DSS and the parents, whether appropriate preadjudication services are being provided, whether the placement is appropriate, and what evidence DSS will be presenting. Obviously, the timing may be such that the GAL and AA have not had the opportunity to collect much information prior to a nonsecure hearing. However, every attempt should be made to get information prior to the hearing and to utilize the hearing to gain information and begin taking steps to move the case forward. The AA should prepare to advocate for appropriate services and placement and to cross-examine witnesses. If necessary, he or she should be prepared to present evidence to the court concerning the need for continued custody or change in placement as well

as evidence concerning reasonable efforts. [GAL Attorney Manual, Ch. 1, § 1.7A1.](#)

- If the AA believes that it is necessary to supplement the evidence DSS intends to present, the AA should collect any information and subpoena any witnesses who will need to be present at the hearing to support the GAL's position. If the subpoena is unlikely to be served in time for the hearing, or in time for adequate notice, the AA should call the witness and ask him or her to be present and then get a subpoena to be served by phone so that it is official. A document subpoena (subpoena *duces tecum*) must be served in person and cannot be served by law enforcement by telephone. Also, only a public official may serve a summons, but any person eighteen years or older who is not a party may serve a subpoena. Remember that a copy of each subpoena must be served upon each party to the proceeding. For other specifics, see Rule 45 of the North Carolina Rules of Civil Procedure and form AOC-G-100. [GAL Attorney Manual, Ch. 1, § 1.7A2.](#)

- As an advocate for the child, it is important that the AA pay attention to the detail that is being incorporated into the court file and make necessary motions or requests to include details that may be overlooked. [GAL Attorney Manual, Ch. 2, § 2.3.](#)

- If a consent agreement has not been reached, the GAL must assess whether there is still a possibility for consent and, if so, coordinate parties to discuss such a possibility. It is never too late to try to reach a consent agreement. If there is any possibility that one can be reached, the GAL should take the initiative to gather the parties to discuss the issues. *Avoiding the adversarial atmosphere of an adjudicatory hearing in favor of a consent agreement is almost always preferable.* In order to determine whether consent is possible, attorneys for each party need to spend time prior to the hearing talking to their clients and to each other. [GAL Attorney Manual, Ch. 2, § 2.4B.](#)

- The AA must be careful about what is consented to or stipulated to in the course of negotiations in a case, because some agreements may have a negative effect in the future pursuit of a TPR. Stipulating to a watered-down version of the facts, consenting to an adjudication of dependency when the facts actually warrant neglect or abuse, or consenting to neglect when the facts warrant abuse, can all damage chances at a successful TPR down the road. While there are times that concessions are preferable to a lost case, unnecessary concessions can lead to a court record that lacks important facts and findings to prove a TPR case. When the evidence is good, but consenting to something less than the facts warrant is easier than a trial, attorneys should consider whether doing what is easier now may make things harder in the future. An attorney advocate may regret consenting to dependency when neglect would have provided grounds for termination in a later stage. [GAL Attorney Manual, Ch. 2, § 2.4D.](#)

- By way of the GAL report, conversations with the GAL volunteer, staff, and others, the GAL AA must have a clear understanding of the GAL position that will be presented to the court on all of the following issues (as well as the reasons behind it):

- where the child should be placed
- what the child wants to see happen in this case
- the child's needs and what services should be offered to him or her
- the parent's needs, what changes they must make, and the services that should be offered to them; how this should play out in court orders, and by when goals should be accomplished
- visitation between parent and child, supervised or unsupervised
- visitation between siblings
- child support
- whether recommended placement would cause the child to change schools and whether that is a problem (if so whether there is any way to avoid such a change)
- whether placement with parent should be conditioned on parent having no contact with certain individuals suspected of harming the child
- whether DSS has made reasonable efforts to prevent or eliminate the need for placement outside the home and what the response has been
- whether there has been an exhaustive effort to identify family and friends as potential placement alternatives
- whether the case should be moving toward reunification or termination
- when the case should be reviewed

It is important for the AA to convey to the GAL volunteer and staff that the AA receive certain information as it emerges, and not just at staff meetings or via a Guardian ad Litem report. Communication between the AA, GAL volunteer, and GAL staff is critical in representing the best interests of the child-client. Examples of information that should be passed on to the AA as it is received include copies of documents obtained by the GAL, notices that the child's placement may change or has changed or the child has run away, information that there are school problems or mental hospitalization, juvenile delinquency charges, unauthorized contact with parents, pregnancy, medical problems, and the like. Where documents are voluminous, the volunteer should speak to the AA to determine what the AA will need to see. Receiving such information in a timely manner may enable the AA to do the extra preparation necessary in the case, including research, filing a motion, or subpoenaing and preparing records or witnesses. [GAL Attorney Manual, Ch. 3, § 3.5A.](#)

- The AA should not rely on another party or a promise to get necessary witnesses and documents to court. A

subpoena should be issued by the AA anytime the AA knows a witness will be needed to testify to support the GAL's position, even if it ends up duplicating a subpoena issued by DSS. The AA should not assume that the witness or document will automatically convey the evidence he or she wants conveyed. Interviewing and/or preparing witnesses and reviewing documents are critical. [GAL Attorney Manual, Ch. 3, § 3.5C.](#)

- The AA may re-examine the case file with a focus on termination and whether facts and evidence will support it. [GAL Attorney Manual, Ch. 4, § 4.3A.](#)

- Even if the AA has had multiple discussions with the volunteer and staff throughout the case, it is important to have a focused discussion with them concerning whether termination is truly in the best interest of the child and whether best interest can be shown in court. [GAL Attorney Manual, Ch. 4, § 4.3B1.](#)

- The AA should consider whether the child is available and should be present for all or part of the proceedings and err on the side of the child's presence since the proceedings involve this child's life. The AA also must consider whether the child's testimony would be helpful, whether the child is capable of testifying, and the pros and cons of having the child testify.

Whether or not the child will be present or testifying, the AA and GAL must determine what, related to the proceedings, needs to be explained to the child. [GAL Attorney Manual, Ch. 4, § 4.3B5.](#)

- If the GAL or child has been subpoenaed to testify and the attorney advocate (AA) believes that testifying is not in the best interest of the child, the AA can file a motion to quash or modify the subpoena pursuant to G.S. 1A-1, Rule 45(c)(1), (3) and (5). Such a motion also could be filed if there is an issue with a witness other than the child that would make it problematic for that person to testify or if the GAL or child is subpoenaed to testify at a non-juvenile hearing. [GAL Attorney Manual, Ch. 6, § 6.2A1.](#)

- The GAL may petition the court to allow the GAL to call an expert witness to be paid by the state if such an expert is necessary for some contemplated dispositional purpose. Normally DSS would call and pay for expert witnesses for its case in chief, but there could be circumstances in which the GAL would need an expert other than the DSS expert at adjudication. The motion must be made in advance of hearing, and the motion must be granted in order for the state to set and pay for the expert's fees. Thus, the AA should identify the expert in advance and get the expert's fee rate. The expert may agree to allow the fee to be set at or after the hearing. This information should be provided to the court with the motion. [GAL Attorney Manual, Ch. 6, § 6.2B.](#)

**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.*

- It is always possible for the judge to enter a consent order or judgment on a petition for abuse, neglect, or dependency if the following statutory criteria are met: (1) all parties are present; (2) the juvenile is represented by counsel; (3) all other parties are either represented by counsel or have waived counsel; and (4) sufficient findings of fact are made by the judge. [Gen. Stat. [7B-902](#)] The GAL, representing the juvenile who is a party to the case pursuant to 7B-601, must also agree with other parties for a consent agreement to take place. [GAL Attorney Manual, Ch. 2, § 2.4A.](#)

- If a consent agreement is reached, the attorney advocate must help ensure that sufficient evidence is still presented in court or that the order contains the necessary findings of fact and conclusions of law. [GAL Attorney Manual, Ch. 2, § 2.4C1.](#)

- If the GAL's testimony or information not yet obtained is crucial and its necessity outweighs the damage done by prolonging the child's case, it would be appropriate to request a continuance pursuant to the child's best interests. Otherwise, the AA should do the best he or she can with any prior information, the GAL's report, conversations with GAL staff, and anything else available. If the GAL has a good reason for not being present, that reason should be explained to the court. [GAL Attorney Manual, Ch. 2, § 2.6B.](#)

- The timing of the GAL's opportunity to question witnesses and make arguments to the court varies depending on the district and the individual judge. DSS is always first, but the decision varies as to whether the GAL or the parent follows DSS. In some courtrooms, there are tables for each party including the petitioner (DSS), the respondent (parents), and the GAL (representing the child). In other courtrooms, there are only two tables, and the GAL needs to find his or her own place. A new AA should simply ask someone like GAL staff, the clerk, or the DSS attorney where the GAL typically sits and in what order things proceed. It is important that the GAL's placement in the courtroom is independent (sitting at same table as DSS is not a good idea). If there is no microphone at the GAL table, it is important to speak up, because the proceedings are recorded. [GAL Attorney Manual, Ch. 2, § 2.6C.](#)

- The AA should talk to the GAL volunteer to determine the primary facts, issues, and recommendations that the volunteer wants to emphasize to the court concerning the best interests of the child. To begin with, the AA needs to talk to the volunteer to determine the approach to be taken in the adjudicatory hearing. [GAL Attorney Manual, Ch. 2, § 2.7A.](#)

- While the GAL is often in favor of adjudication of the petition to allow the juvenile court to exercise continuing

jurisdiction over the case and parties, there are times when the GAL and DSS disagree as to whether the adjudication should be one of abuse, neglect or dependency. In any event, although the GAL is not the petitioner and therefore not responsible for proving the case, the GAL has a duty to ensure that the court is presented with all evidence that is competent and relevant to prove the allegations that would further the best interests of the child. [GAL Attorney Manual, Ch. 2, § 2.8.](#)

- The role of the AA during disposition and review is clearly very important because, as the child's advocate, the AA's input should have a significant impact on the dispositional decision. The appointment statute, [7B-601](#), provides: "In every case where a nonattorney is appointed as guardian ad litem, an attorney shall be appointed in the case in order to *assure protection of the juvenile's legal rights throughout the proceeding.*" (emphasis added) It is therefore clear that attorney advocates are to maintain an active role until the case is closed or the attorney's appointment is terminated. [GAL Attorney Manual, Ch. 3, § 3.1C.](#)

- The attorney advocate should be prepared to proceed immediately to disposition when possible. Mindful of the child's sense of time, the AA should advocate for proceeding to disposition as soon as all relevant evidence has been collected and can be presented to the court. The AA should argue against unnecessary requests for postponing disposition when such postponement is not in the best interest of the child. [GAL Attorney Manual, Ch. 3, § 3.2A.](#)

- Ideally, the attorney advocate will receive a GAL report far enough in advance of the hearing to determine whether the report raises issues requiring clarification or additional information. Even if the AA feels "up-to-speed" on the case and understands the GAL's position, the report itself may not be a complete reflection of the AA's understanding of the case. The GAL report may contain pieces of information that the AA did not know about or finds problematic, or the report may lack information that the AA considers important. In any event, because the GAL report is handed to the judge, the AA must be prepared to deal with whatever is or is not contained in the report in the best way possible to advocate for the child's best interests. For example, the AA may need to prepare questions to ask the GAL on the stand that will clarify parts of the report, or may need to call certain witnesses to support or supplement the report. It is important for the AA to discuss his or her intentions with the GAL so that they operate as a team and not on separate, parallel tracks. Some GALs and AAs believe it is important to prepare a report that can be shared with the child. Obviously, this is not always possible. However, if some of the relevant information is not appropriate for the child to see, the AA might consider introducing it into evidence via documents or testimony. [GAL Attorney Manual, Ch. 3, § 3.3A.](#)

- Although the GAL cannot give lay opinion regarding best interest or submit a report during the adjudication

	<p>phase of the case, but the AA can and should make sure that <i>all the evidence that led the GAL to his or her conclusion regarding best interest is introduced</i>. If adjudicatory and dispositional evidence is separated, once the disposition phase of the case is reached, additional evidence (such as the GAL report or testimony of the GAL) regarding best interest may be offered. If the judge does not automatically present the opportunity, the attorney may request it. If there is no clear separation between adjudication and disposition, the AA can ask that certain evidence be admitted for dispositional purposes only. The AA should ask the right questions of the GAL to prompt him or her to articulate exactly which facts have played a part in the GAL’s opinion regarding best interest. <a href="#">GAL Attorney Manual, Ch. 4, § 4.9A4c.</a></p>
<p>4. <b>Post-Hearing:</b> <i>Review courts order, communicate order to child, and monitor implementation of orders.</i></p>	<p>- Typically, the party who prevails drafts the order (often DSS), but all parties should be given an opportunity to review the order before the judge signs it. In the event that the DSS attorney drafts the order, but does not submit a proposed copy to the GAL, the AA should contact the DSS attorney and request such a procedure. In some districts, however, it is customary for the clerk to prepare the order, and in some cases the judge is the only one who reviews it. It would be to everyone’s benefit, however, to suggest a process whereby the judge and all parties have an opportunity to review the order. It is important to check orders carefully and point out discrepancies or mistakes. In the event that an order is entered without GAL or AA review and there are mistakes or omissions, the AA should make a motion pursuant to Rule 52(b) of the North Carolina Rules of Civil Procedure to amend the judgment within ten (10) days of entry and request that the order be amended to include omitted or mistaken findings of fact or conclusions of law. Reviewing orders is imperative to prevent issues on appeal. <a href="#">GAL Attorney Manual, Ch. 2, § 2.9C1.</a></p>
<p>5. <b>Appellate Advocacy:</b> <i>Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</i></p>	<p>- (a) In a juvenile matter under this Subchapter, appeal of a final order of the court in a juvenile matter shall be made directly to the Court of Appeals. Only the following juvenile matters may be appealed:</p> <ol style="list-style-type: none"> <li>(1) Any order finding absence of jurisdiction.</li> <li>(2) Any order, including the involuntary dismissal of a petition, which in effect determines the action and prevents a judgment from which appeal might be taken.</li> <li>(3) Any initial order of disposition and the adjudication order upon which it is based.</li> <li>(4) Any order, other than a nonsecure custody order, that changes legal custody of a juvenile.</li> <li>(5) An order entered under <a href="#">G.S. 7B-507(c)</a> with rights to appeal properly preserved as provided in that subsection, as follows: <ol style="list-style-type: none"> <li>a. The Court of Appeals shall review the order to cease reunification together with an appeal of the termination of parental rights order if all of the following apply:</li> </ol> </li> </ol>

	<ol style="list-style-type: none"> <li>1. A motion or petition to terminate the parent's rights is heard and granted.</li> <li>2. The order terminating parental rights is appealed in a proper and timely manner.</li> <li>3. The order to cease reunification is assigned as an error in the record on appeal of the termination of parental rights. <ol style="list-style-type: none"> <li>b. A party who is a parent shall have the right to appeal the order if no termination of parental rights petition or motion is filed within 180 days of the order.</li> <li>c. A party who is a custodian or guardian shall have the right to immediately appeal the order.</li> </ol> </li> </ol> <p>(6) Any order that terminates parental rights or denies a petition or motion to terminate parental rights.</p> <p>(b) Except for orders covered in subdivision (a)(5) of this section, notice of appeal shall be given in writing by a proper party as defined in <a href="#">G.S. 7B-1002</a> and shall be made within 30 days after entry and service of the order in accordance with G.S. 1A-1, Rule 58. Notice of appeal for orders covered in subdivision (a)(5) of this section shall be given in writing by a proper party as defined in <a href="#">G.S. 7B-1002</a>.</p> <p>(c) Notice of appeal shall be signed by counsel for the appealing party, if any, and shall be taken only by following direct instruction of the appealing party after the conclusion of the proceeding. In the case of an appeal by a juvenile, notice of appeal shall be signed by the guardian ad litem attorney advocate. <a href="#">Gen Stat. § 7B-1001</a>.</p> <p>- Appeal from an order permitted under <a href="#">G.S. 7B-1001</a> may be taken by:</p> <p>(1) A juvenile acting through the juvenile's guardian ad litem previously appointed under <a href="#">G.S. 7B-601</a>... <a href="#">Gen. Stat. § 7B-1002</a>.</p>
<p><b>6. Cessation of Representation:</b> Contacts post representation, if any.</p>	<p>- The appointment shall terminate when the permanent plan has been achieved for the juvenile and approved by the court. The court may reappoint the guardian ad litem pursuant to a showing of good cause upon motion of any party, including the guardian ad litem, or of the court. <a href="#">Gen. Stat. § 7B-601(a)</a>.</p>
<p><b>Organizational and Administrative Supports for the Child Representative</b></p>	
<p><b>7. General Representation Rules:</b> Administrative structure is clear for appointment, support and accountability of the CR. The child's</p>	<p>- There is established within the Administrative Office of the Courts an Office of Guardian ad Litem Services to provide services in accordance with <a href="#">G.S. 7B-601</a> to abused, neglected, or dependent juveniles involved in judicial proceedings and to assure that all participants in these proceedings are adequately trained to carry out their responsibilities. Each local program shall consist of volunteer guardians ad litem, at least one program attorney, a program coordinator who is a paid State employee, and any clerical staff as the Administrative Office of the Courts in consultation with the local program deems necessary. The Administrative Office of the Courts shall adopt rules and regulations necessary and appropriate for the administration of the program. <a href="#">Gen. Stat. § 7B-1200</a>.</p>

*representative is independent from the “court”*

- (a) Local Programs. – The Administrative Office of the Courts shall, in cooperation with each chief district court judge and other personnel in the district, implement and administer the program mandated by this Article. Where a local program has not yet been established in accordance with this Article, the district court district shall operate a guardian ad litem program approved by the Administrative Office of the Courts.

(b) Advisory Committee Established. – The Director of the Administrative Office of the Courts shall appoint a Guardian ad Litem Advisory Committee consisting of at least five members to advise the Office of Guardian ad Litem Services in matters related to this program. The members of the Advisory Committee shall receive the same per diem and reimbursement for travel expenses as members of State boards and commissions generally. [Gen. Stat. § 7B-1201.](#)

- The GAL attorney advocate has certain contractual obligations pertaining to the services that he or she performs in providing legal representation to GAL child clients. Those contractual obligations relevant to a discussion of AA responsibilities include the following:

The AA agrees to provide, in a manner satisfactory to the agency and consistent with the North Carolina Revised rules of Professional Conduct, the following legal services reasonably necessary to effectively advocate in the proceedings brought pursuant to Chapter 7B of the North Carolina General Statutes for each child client of the Guardian ad Litem Services Division for whom the attorney has been appointed to represent, including but not limited to: representing the best interests of the child in non-secure custody hearings, adjudicatory proceedings, dispositional proceedings, and proceedings to terminate parental rights; participation in any court ordered pre-trial conferences; and all other reasonable professional services necessary after disposition until the court relieves the attorney of this duty. The attorney shall be present and represent each child client at every review hearing; provided, however, that if the attorney is unable to attend a review hearing the attorney will be deemed to have fulfilled this obligation if the child is represented at the review hearing by an attorney approved by the GAL Services division.

The AA further agrees to advocate for and further the best interests of the child and assure protection of the child’s legal rights by taking all action necessary to zealously represent the child; such advocacy includes but is not limited to:

- ensuring that all relevant evidence and witnesses to be introduced in court are identified and secured;
- interviewing witnesses when appropriate, including the child, and preparing witnesses for court;
- ensuring that subpoenas are issued in a timely manner;

	<ul style="list-style-type: none"> <li>• examining and cross-examining witnesses and introducing relevant evidence in court;</li> <li>• making relevant arguments to the court;</li> <li>• reviewing court orders for accuracy and taking appropriate action when corrections are required;</li> <li>• ensuring that all hearings are timely scheduled and held, including the filing of motions for such hearings if necessary;</li> <li>• ensuring that termination of parental rights petitions are filed in a timely manner when needed to further the interests of the child, including the filing of such petitions initiated by the GAL;</li> <li>• discussing case issues with the Volunteer GAL and other parties to ensure complete familiarity with facts and issues in the case and to determine areas of agreement and disagreement and the legal limits within which a settlement can be reached. The attorney agrees not to enter into a settlement with other parties without agreement from the Volunteer GAL;</li> <li>• advocating for interventions designed to expedite the cessation of court involvement;</li> <li>• in effort with the Volunteer GAL, facilitating agreements among the parties;</li> <li>• requesting release of the GAL and AA pursuant to 7B-601 and ensuring court orders reflect that release.</li> </ul> <p>The AA shall ensure that the child, by and through the GAL, participates in all appeals arising out of the proceedings to which the AA is appointed. A separate brief for the child is not necessary if the attorney deems it appropriate to join in the brief of another party so long as the child becomes a party to the appeal and the brief sufficiently addresses the child’s appellate issues.</p> <p>The attorney has no obligation and shall not be paid for participating in tangential legal or administrative proceedings that may benefit the child but fall outside the scope of Chapter 7B. The attorney is not required to pursue these actions on behalf of the child but rather must advocate for proper representation for the child so that the child is able to proceed with these actions. <a href="#">GAL Attorney Manual, Ch. 8, § 8.4C.</a></p>
<p><b>8. Lawyer Training:</b>  <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i></p>	<p>- <i>GAL training is not codified in statute, but the North Carolina courts provide information on its website.</i></p> <p>- The process of becoming a Guardian ad Litem Volunteer requires a written application, three personal/professional references and a criminal record check. A staff member will conduct a personal interview. A volunteer must complete 30 hours of required training. The Volunteer will be sworn in by a district court judge before assignment of his or her first case. The GAL Volunteer will commit to at least 4 hours per month on appointed cases.</p> <p>The North Carolina Volunteer Guardian ad Litem training curriculum is taught by certified and experienced GAL</p>

	<p>trainers or staff. Volunteers also receive continuing education on advocacy issues. Guardian ad Litem Volunteers are supervised by the program staff. <i>See</i> <a href="http://www.nccourts.org/Citizens/GAL/Documents/GAL_jobdescription.pdf">http://www.nccourts.org/Citizens/GAL/Documents/GAL_jobdescription.pdf</a> for more information.</p>
<p><b>9. Lawyer Compensation:</b> <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>- (a) An attorney or guardian ad litem appointed pursuant to <a href="#">G.S. 7B-601</a> shall be paid a reasonable fee fixed by the court or by direct engagement for specialized guardian ad litem services through the Administrative Office of the Courts.</p> <p>(a1) The court may require payment of the fee for an attorney or guardian ad litem appointed pursuant to <a href="#">G.S. 7B-601</a> from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. In no event shall the parent or guardian be required to pay the fees for a court-appointed attorney or guardian ad litem in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. If the party is ordered to reimburse the State for attorney or guardian ad litem fees and fails to comply with the order at the time of disposition, the court shall file a judgment against the party for the amount due the State.</p> <p>(b) An attorney appointed pursuant to <a href="#">G.S. 7B-602</a> or pursuant to any other provision of the Juvenile Code for which the Office of Indigent Defense Services is responsible for providing counsel shall be paid a reasonable fee in accordance with rules adopted by the Office of Indigent Defense Services.</p> <p>(b1) The court may require payment of the fee for an attorney appointed pursuant to <a href="#">G.S. 7B-602</a> or <a href="#">G.S. 7B-1101</a> from the respondent. In no event shall the respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have been terminated. At the dispositional hearing or other appropriate hearing, the court shall make a determination whether the respondent should be held responsible for reimbursing the State for the respondent's attorneys' fees. This determination shall include the respondent's financial ability to pay.</p> <p>If the court determines that the respondent is responsible for reimbursing the State for the respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the order at the time of disposition, the court shall file a judgment against the respondent for the amount due the State. <a href="#">Gen. Stat. § 7B-603.</a></p>

**10. Caseload Levels:**

*Caseloads are of a manageable size.*

*No explicit legal authority or requirement.*