

WASHINGTON	Legal Authority
	GENERAL DUTIES AND ACTIVITIES OF THE CHILD’S LEGAL REPRESENTATIVE
<p><i>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child’s interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</i></p>	<p>In any judicial proceeding under this chapter or chapter 13.34 RCW [dependency or termination of parental rights actions] in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem for the child as provided in chapter 13.34 RCW. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel in the proceedings. Wash. Rev. Code § 26.44.053(1).</p> <p>“Guardian ad litem” means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. Wash. Rev. Code § 13.34.030(9).</p> <p>The term guardian ad litem shall not include an attorney appointed to represent a party. Wash. Super. Ct. GALR 1(2).</p> <p>Any party has a right to be represented by an attorney in all proceedings under this chapter. Wash. Rev. Code § 13.34.090(1); Wash. Super. Ct. JuCR 9.2(a).</p> <p>The court shall provide a lawyer at public expense in a dependency or termination proceeding ...upon request of a party or on the court's own initiative, the court shall appoint a lawyer for a juvenile who has no guardian ad litem and who is financially unable to obtain a lawyer without causing substantial hardship to himself or herself or the juvenile's family. The ability to pay part of the cost of a lawyer shall not preclude assignment. A juvenile shall not be deprived of a lawyer because a parent, guardian, or custodian refuses to pay for a lawyer for the juvenile. If the court has appointed a guardian ad litem for the juvenile, the court may, but need not, appoint a lawyer for the juvenile. Wash. Super. Ct. JuCR 9.2(c)(1).</p> <p>The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by independent counsel in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. Wash. Rev. Code § 13.34.100(1).</p> <p>If the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position. Wash. Rev. Code § 13.34.100(6).</p> <p>If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed. Wash. Rev. Code § 13.34.100(2).</p> <p>For the purposes of child abuse prevention and treatment act (42 U.S.C. §§ 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to represent the best interests of the minor in proceedings before the court. Wash. Rev. Code § 13.34.100(7).</p> <p>A “court-appointed special advocate” appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.</p>

[Wash. Rev. Code § 13.34.030\(9\).](#)

When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program. [Wash. Rev. Code § 13.34.100\(8\).](#)

If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified. [Wash. Rev. Code § 13.34.100\(9\).](#)

Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry. [Wash. Rev. Code § 13.34.102\(2\)\(a\).](#)

In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information as specified in RCW 13.34.100(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed. [Wash. Rev. Code § 13.34.102\(2\)\(b\).](#)

If a party reasonably believes that the appointed guardian ad litem lacks the necessary expertise for the proceeding, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court. [Wash. Rev. Code § 13.34.102\(2\)\(c\).](#)

The superior court shall remove any person from the guardian ad litem registry who misrepresents his or her qualifications pursuant to a grievance procedure established by the court. [Wash. Rev. Code § 13.34.102\(2\)\(d\).](#)

The rotational registry system shall not apply to court- appointed special advocate programs. [Wash. Rev. Code § 13.34.102\(3\).](#)

A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability. [Wash. Rev. Code § 13.34.105\(2\).](#)

A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW. [Wash. Rev. Code § 13.34.105\(4\).](#)

The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100. [Wash. Rev. Code § 13.34.105\(5\).](#)

The court, upon its own motion, or upon the motion of a party, may consider the removal of any guardian ad litem or court-appointed special advocate who engages in ex parte communications with any judicial officer involved in the matter for which he or she is appointed during the pendency of the proceeding, except as permitted by court rule or statute for ex parte motions. [Wash. Rev. Code § 13.34.107](#).

A guardian ad litem shall represent the best interests of the person for whom he or she is appointed. Representation of best interests may be inconsistent with the wishes of the person whose interest the guardian ad litem represents. The guardian ad litem shall not advocate on behalf of or advise any party so as to create in the mind of a reasonable person the appearance of representing that party as an attorney. [Wash. Super. Ct. GALR 2\(a\)](#).

A guardian ad litem shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom. [Wash. Super. Ct. GALR 2\(b\)](#).

A guardian ad litem shall maintain the ethical principles of the rules of conduct set forth in these rules and is subject to discipline under local rules established pursuant to rule 7 for violation. [Wash. Super. Ct. GALR 2\(b\)](#).

A guardian ad litem shall avoid any actual or apparent conflict of interest or impropriety in the performance of guardian ad litem responsibilities. A guardian ad litem shall avoid self-dealing or association from which a guardian ad litem might directly or indirectly benefit, other than for compensation as guardian ad litem. A guardian ad litem shall take action immediately to resolve any potential conflict or impropriety. A guardian ad litem shall advise the court and the parties of action taken, resign from the matter, or seek court direction as may be necessary to resolve the conflict or impropriety. A guardian ad litem shall not accept or maintain appointment if the performance of the duties of guardian ad litem may be materially limited by the guardian ad litem's responsibilities to another client or a third person, or by the guardian ad litem's own interests. [Wash. Super. Ct. GALR 2\(e\)](#).

A guardian ad litem is an officer of the court and as such shall at all times treat the parties with respect, courtesy, fairness and good faith. [Wash. Super. Ct. GALR 2\(f\)](#).

A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. A guardian ad litem shall examine material information and sources of information, taking into account the positions of the parties. [Wash. Super. Ct. GALR 2\(g\)](#).

A guardian ad litem shall not require any evaluations or tests of the parties except as authorized by statute or court order issued following notice and opportunity to be heard. [Wash. Super. Ct. GALR 2\(h\)](#).

A guardian ad litem shall file a written report with the court and the parties as required by law or court order or in any event not later than 10 days prior to a hearing for which a report is required. The report shall be accompanied by a written list of documents considered or called to the attention of the guardian ad litem and persons interviewed during the course of the investigation. [Wash. Super. Ct. GALR 2\(i\)](#).

A guardian ad litem shall comply with the court's instructions as set out in the order appointing a guardian ad litem, and shall not provide or require services beyond the scope of the court's instruction unless by motion and on adequate notice to the parties, a

	<p>guardian ad litem obtains additional instruction, clarification or expansion of the scope of such appointment. Wash. Super. Ct. GALR 2(j).</p> <p>A guardian ad litem shall identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and inform individuals contacted in a particular case about the role of a guardian ad litem in the case at the earliest practicable time. A guardian ad litem shall advise information sources that the documents and information obtained may become part of court proceedings. Wash. Super. Ct. GALR 2(k).</p> <p>The guardian ad litem shall be given notice of all hearings and proceedings. A guardian ad litem shall appear at any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed. In Title 11 RCW proceedings, the guardian ad litem shall appear at all hearings unless excused by court order. Wash. Super. Ct. GALR 2(l).</p> <p>A guardian ad litem or court-appointed special advocate shall not engage in ex parte communications with any judicial officer involved in the matter for which he or she is appointed during the pendency of the proceeding, except as permitted by court rule or statute for ex parte motions. Ex parte motions shall be heard in open court on the record. The record may be preserved in a manner deemed appropriate by the county where the matter is heard. The court, upon its own motion, or upon the motion of a party, may consider the removal of any guardian ad litem or court-appointed special advocate who violates this section from any pending case or from any court-authorized registry, and if so removed may require forfeiture of any fees for professional services on the pending case. Wash. Rev. Code § 13.34.107; Wash. Super. Ct. GALR 2(m).</p> <p>As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of identifiers or addresses where there are allegations of domestic violence or risk to a party's or child's safety. The guardian ad litem may recommend that the court seal the report or a portion of the report of the guardian ad litem to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure or discovery that addresses the need to challenge the truth of the information received from the confidential source. Wash. Super. Ct. GALR 2(n).</p> <p>A guardian ad litem shall perform responsibilities in a prompt and timely manner, and, if necessary, request timely court reviews and judicial intervention in writing with notice to parties or affected agencies. Wash. Super. Ct. GALR 2(o).</p> <p>When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client. Wash. R. Prof. Conduct § 1.14(a).</p>
<p>2. Out of Court - Actions to be Taken: <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings,</i></p>	<p>Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:</p> <ul style="list-style-type: none"> (a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child; (b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court

<i>request services, address special needs, negotiate</i>	<p>any views or positions expressed by the child on issues pending before the court;</p> <p>(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;</p> <p>(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;</p> <p>(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties; and</p> <p>(f) To represent and be an advocate for the best interests of the child. Wash. Rev. Code § 13.34.105(1).</p> <p>Except for information or records specified in RCW 13.50.100(7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law. Wash. Rev. Code § 13.34.105(3).</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>A guardian ad litem through counsel, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter. Wash. Rev. Code § 13.34.100(5).</p>
4. Post-Hearing: <i>Review courts order, communicate order to child, and monitor implementation of orders.</i>	<p>GAL duties include:</p> <p>“ (c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;...” Wash. Rev. Code § 13.34.105(1)(c).</p>
5. Appellate Advocacy: <i>Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</i>	<p><i>No explicit legal authority or requirement.</i></p>

<p>6. Cessation of Representation: <i>Contacts post representation, if any.</i></p>	<p>The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship. Wash. Rev. Code § 13.34.100(4).</p>
	<p>Organizational and Administrative Supports Provided the Representative</p>
<p>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></p>	<p>Court appoints child's legal representative. Administrative structure for support and accountability of an attorney or counsel is not clear. Administrative structure for GAL/CASA is provided.</p> <p>The legal CR is only somewhat independent of the court.</p>
<p>8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i></p>	<p>- Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:</p> <ul style="list-style-type: none"> (a) Level of formal education; (b) General training related to the guardian ad litem's duties; (c) Specific training related to issues potentially faced by children in the dependency system; (d) Specific training or education related to child disability or developmental issues; (e) Number of years' experience as a guardian ad litem; (f) Number of appointments as a guardian ad litem and the county or counties of appointment; (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; (h) Founded allegations of abuse or neglect as defined in RCW 26. 44.020; (i) The results of an examination of state and national criminal identification data. The examination shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; and (j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment. <p>The background information record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.</p> <p>Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home</p>

	<p>telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety. Wash. Rev. Code § 13.34.100(3).</p> <ul style="list-style-type: none"> - All guardians ad litem must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases under Title 13 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the administrative office of the courts that meet or exceed the statewide requirements. Wash. Rev. Code § 13.34.102(1). - The administrator for the courts shall, under the supervision and direction of the chief justice...[d]evelop, in consultation with the entities set forth in RCW 2.56.150(3) [various parties and professionals involved in child welfare], a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem. Wash. Rev. Code § 2.56.030(15). - Unless excepted by statute or court rule, a guardian ad litem shall satisfy all training requirements and continuing education requirements developed for Titles 13 and 26 RCW guardians ad litem by the administrator of the courts and for Title 11 RCW guardians ad litem as required by statute and maintain qualifications to serve as guardian ad litem in every county where the guardian ad litem is listed on the registry for that county and in which the guardian ad litem serves and shall promptly advise each such court of any grounds for disqualification or unavailability to serve. Wash. Super. Ct. GALR 2(d).
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>A guardian ad litem shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment. The court shall make provisions for fees and expenses pursuant to statute in the Order Appointing Guardian ad Litem or in any subsequent order. Wash. Super. Ct. GALR 2(q).</p> <p>Each court shall promulgate local rules providing a system of appointing and reasonably compensating guardians ad litem which ensures an equitable distribution of the work load among the guardians ad litem on the registry. Wash. Super. Ct. GALR 5(a).</p> <p>The court shall provide a lawyer at public expense in a dependency or termination proceeding ...upon request of a party or on the court's own initiative, the court shall appoint a lawyer for a juvenile who has no guardian ad litem and who is financially unable to obtain a lawyer without causing substantial hardship to himself or herself or the juvenile's family. The ability to pay part of the cost of a lawyer shall not preclude assignment. A juvenile shall not be deprived of a lawyer because a parent, guardian, or custodian refuses to pay for a lawyer for the juvenile. Wash. Super. Ct. JuCR 9.2(c)(1).</p> <ul style="list-style-type: none"> - The court shall specify the hourly rate the guardian ad litem may charge for his or her services, and shall specify the maximum amount the guardian ad litem may charge without additional court review and approval. The court shall specify rates and fees in the order of appointment or at the earliest date the court is able to determine the appropriate rates and fees and prior to the guardian ad litem billing for his or her services. This section shall apply except as provided by local court rule. Wash. Rev. Code § 13.34.108.

10. <i>Caseload Levels:</i> <i>Caseloads are of a manageable size.</i>	<i>No explicit legal authority or requirement.</i>