

SOUTH CAROLINA

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>The South Carolina Guardian ad Litem program is state-funded and is part of the Governor's Office. We currently operate in 45 counties within the state's 16 judicial circuits. The Richland County Guardian ad Litem Program operates independently from the statewide program and is funded as a public-private partnership through various county funds, grants and donations. http://scgal.org/state/faqs.html</p>
<p>Funding Child Representation</p>	<p>N. In some types of cases, a guardian ad litem shall be paid the fees ordered by the court or agreed upon between the parties and the guardian ad litem. At the earliest possible time, the guardian ad litem should notify the parties of the proposed fee. A guardian ad litem should submit itemized statements based on the time and expense records schedule. In child protection cases, the volunteer guardians ad litem do not receive fees. Guidelines for Guardians <i>ad Litem</i>, Process and Duties</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child's interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>In all child abuse and neglect proceedings:</p> <p>(1) Children must be appointed a guardian ad litem by the family court. A guardian ad litem serving on behalf of the South Carolina Guardian ad Litem Program or Richland County CASA must be represented by legal counsel in any judicial proceeding pursuant to Section 63-11-530(C).</p> <p>(2) The family court may appoint legal counsel for the child. Counsel for the child may not be the same as counsel for:</p> <p>(a) the parent, legal guardian, or other person subject to the proceeding;</p> <p>(b) any governmental or social agency involved in the proceeding;</p> <p>(c) the child's guardian ad litem.</p> <p>S.C. CODE ANN. § 63-7-1620</p> <p>(A) Parents, guardians, or other persons subject to a termination of parental rights action are entitled to legal counsel. Those persons unable to afford legal representation must be appointed counsel by the family court, unless the defendant is in default.</p> <p>(B) A child subject to any judicial proceeding under this article must be appointed a guardian ad litem by the family court. If a guardian ad litem who is not an attorney finds that appointment of counsel is</p>

	<p>necessary to protect the rights and interests of the child, an attorney must be appointed. If the guardian ad litem is an attorney, the judge must determine on a case-by-case basis whether counsel is required for the guardian ad litem. However, counsel must be appointed for a guardian ad litem who is not an attorney in any case that is contested. S.C. CODE ANN. § 63-7-2560</p> <p>(A)(1) The guardian ad litem is charged in general with the duty of representation of the child's best interests ... S.C. CODE ANN. § 63-11-530</p>
<p>1. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>The responsibilities and duties of a guardian ad litem are to:</p> <ol style="list-style-type: none"> (1) represent the best interests of the child; (2) advocate for the welfare and rights of a child involved in an abuse or neglect proceeding; (3) conduct an independent assessment of the facts, the needs of the child, and the available resources within the family and community to meet those needs; (4) maintain accurate, written case records; (5) provide the family court with a written report, consistent with the rules of evidence and the rules of the court, which includes without limitation evaluation and assessment of the issues brought before the court and recommendations for the case plan, the wishes of the child, if appropriate, and subsequent disposition of the case; (6) monitor compliance with the orders of the family court and to make the motions necessary to enforce the orders of the court or seek judicial review; (7) protect and promote the best interests of the child until formally relieved of the responsibility by the family court. S.C. CODE ANN. § 63-11-510. <p>(A)(2) After appointment by the family court to a case involving an abused or neglected child, the guardian ad litem shall receive appropriate notice of all court hearings and proceedings regarding the child...</p> <p>(B) The guardian ad litem is authorized to:</p> <ol style="list-style-type: none"> (1) conduct an independent assessment of the facts; (2) confer with and observe the child involved; (3) interview persons involved in the case; (4) participate on any multidisciplinary evaluation team for the case on which the guardian ad litem has been appointed; (5) make recommendations to the court concerning the child's welfare; (6) make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the child.

[S.C. CODE ANN. § 63-11-530](#)

All reports made and information collected as described in Section 63-7-1990(A) must be made available to the guardian ad litem by the Department of Social Services. Upon proof of appointment as guardian ad litem and upon the guardian ad litem request, access to information must be made available to the guardian ad litem by the appropriate medical and dental authorities, psychologists, social workers, counselors, schools, and any agency providing services to the child. [S.C. CODE ANN. § 63-11-540](#)

- A. A guardian ad litem should conduct an independent assessment to determine what is in the best interest of the child.
- B. A guardian ad litem should interview the parties, parents and caretakers of the child, unless it would be contrary to the child's interests or otherwise inappropriate under the circumstances. Consent of the parents' attorneys, if any, should be obtained by the guardian ad litem before communicating with the parents. Unless the parents' interests conflict with those of the child, the guardian ad litem should give deference to their wishes, absent a good reason to do otherwise.
- C. A guardian ad litem should communicate with the child as appropriate in light of the child's age and maturity. The guardian ad litem should explain the role that he or she will play in the particular litigation and the nature of the relationship the child should expect to have with the guardian ad litem. The guardian ad litem should be careful not to raise false hopes or unreasonable expectations, and keeping in mind the temporary nature of the relationship, should not facilitate overdependence. A guardian ad litem should keep the child informed about the status of the litigation and the child's interests that may be affected by the litigation. A guardian ad litem should explain what he or she thinks is best for the child, even if it conflicts with the child's wishes.
- D. A guardian ad litem should strive to protect confidential communications with the child and should help the child understand that anything that the child tells the guardian ad litem may be revealed. A guardian ad litem should carefully explain to a child under what circumstances he or she is allowed, or may be compelled, to disclose the child's confidences. Prior to disclosure, the guardian ad litem should discuss with the child any intention to disclose a confidential communication and the reasons for doing so. A guardian ad litem should give deference to the wishes of the child in deciding whether to disclose a confidential communication, absent an appropriate reason for doing otherwise.
- E. A guardian ad litem should consult with the child and make decisions with the child about the outcome of the proceedings affecting the child, commensurate with the child's age, experience, maturity and judgment. A guardian ad litem should recognize that children have varying degrees of competence and, to

	<p>the extent a child is able to articulate an opinion about the ultimate outcome of the proceeding, the child’s opinion is entitled to weight. In any case in which the guardian ad litem must make important decisions on behalf of the child, the guardian ad litem should consider all the surrounding circumstances and act with care to safeguard and advance the best interest of the child.</p> <p>F. When circumstances suggest the need for independent legal representation of the child, for example, when a child of sufficient age and maturity disagrees with the position of the guardian ad litem regarding the proceedings, the guardian ad litem should move for a hearing on the issue. If the court finds that the child is capable of mature and independent decisions, the guardian ad litem should be dismissed and an attorney appointed for the child. The guardian ad litem duties shall continue in addition to the child’s attorney in cases where required by statute. Guidelines for Guardians ad Litem, Process and Duties</p>
<p>2. In Court – Active 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.</p>	<p>(B) The guardian ad litem is authorized to:</p> <p>...</p> <p>(5) make recommendations to the court concerning the child's welfare;</p> <p>(6) make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the child.</p> <p>(C) The guardian ad litem is authorized through counsel to introduce, examine, and cross-examine witnesses in any proceeding involving the child and participate in the proceedings to any degree necessary to represent the child adequately. S.C. CODE ANN. § 63-11-530</p> <p>In all matters relating to children, the family court judge shall have the right, within his discretion, to talk with the children, individually or together, in private conference. Upon timely request, the court, in its discretion, may permit a guardian <i>ad litem</i> for a child who is being examined, and/or the attorneys representing the parents, if any, to be present during the interview. S.C. FAM. CT. R. 22.</p> <p>A. A guardian ad litem should inform the court of the relevant wishes of the child, irrespective of the child’s age. If the child does not have his or her own attorney, the guardian ad litem should assist the child in conveying the child’s wishes to the court through appropriate means, such as testimony or the introduction of evidence. This is a responsibility of the guardian ad litem regardless of whether the child’s expressed wishes coincide with those of the guardian ad litem’s opinions of the best interest of the child</p> <p>...</p>

	<p>K. In judicial proceedings involving issues affecting a child’s interest, a guardian ad litem should (through counsel unless the guardian ad litem is an attorney) introduce evidence, examine and cross-examine witnesses, and present the child’s positions to the court. The guardian ad litem should otherwise participate in the proceedings to the degree necessary to protect the child’s interest. If the guardian ad litem becomes aware of benefits and services to which the child is entitled, the guardian ad litem should bring these issues to the attention of the court.</p> <p>L. A guardian ad litem may advocate a position in court on any issue concerning the interests of the child. Any recommendation to the court must be based on evidence in the record. A guardian ad litem may submit briefs, memoranda, affidavits or other documents on behalf of the child the same as any other party. Any report or recommendation of a guardian ad litem must be submitted in a manner consistent with the rules of evidence.</p> <p>Guidelines for Guardians <i>ad Litem</i>, Process and Duties</p>
<p>3. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>The responsibilities and duties of a guardian ad litem are to:</p> <p>...</p> <p>(6) monitor compliance with the orders of the family court and to make the motions necessary to enforce the orders of the court or seek judicial review</p> <p>...</p> <p>S.C. CODE ANN. § 63-11-510.</p>
<p>4. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>"Party in interest" includes the child, the child's attorney and guardian ad litem, the natural parent, an individual with physical or legal custody of the child, the foster parent, and the local foster care review board. S.C. CODE ANN. § 63-7-20(15)</p>
<p>5. Cessation of Representation: Contacts post representation, if any</p>	<p>(A)(1)...The obligation of the guardian ad litem to the court is a continuing one and continues until formally relieved by the court.</p> <p>(2) The South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63-11-500, whichever is appropriate, may intervene in an abuse or neglect proceeding in order to petition the court to relieve the volunteer, lay guardian ad litem from appointment for the following reasons:</p> <p>(a) incapacity;</p>

	<p>(b) conflict of interest; (c) misconduct; (d) persistent neglect of duties; (e) incompetence; or (f) a knowing and wilful violation of program policies and procedures that affect the health, safety, and welfare of the child.</p> <p>S.C. CODE ANN. § 63-11-530</p> <p>P. The duties of the guardian ad litem continue until relieved by the court or upon an unappealed final order. The guardian ad litem should be mindful that the litigation may not be concluded until all appeals and subsequent proceedings are final. The level of participation in the appeals process is to be determined by the guardian ad litem based on the facts and circumstances and in light of the best interest of the child.</p> <p>Q. Guardians ad litem should recognize the need for continuity of representation in a child’s life and be prepared to serve throughout all stages of the case. Guardians ad litem who are unable to continue to serve should cooperate fully with successor guardians ad litem.</p> <p>Guidelines for Guardians <i>ad Litem</i>, Process and Duties</p>
<p>6. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child’s representative is independent from the court</p>	<p>(A) There is created the Cass Elias McCarter Guardian ad Litem Program in South Carolina. The program shall serve as a statewide system to provide training and supervision to volunteers who serve as court-appointed special advocates for children in abuse and neglect proceedings within the family court, pursuant to Section 63-7-1620. This program must be administered by the Department of Administration.</p> <p>(B) Notwithstanding the provisions of subsection (A), a county providing the guardian ad litem services set forth in subsection (A) prior to the effective date of this act may continue to provide such services, provided the county guardian ad litem program is a member of the National Court Appointed Special Advocate Association. However, a county guardian ad litem program operating pursuant to this subsection must comply with all state and federal laws, even if compliance with state or federal laws would result in the violation of a requirement for membership in the National Court Appointed Special Advocate Association. (effective 7/1/15)</p> <p>S.C. CODE ANN. § 63-11-500</p>

<p>7. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>A. Appropriate training of the guardian <i>ad litem</i> includes instruction in these subjects:</p> <ol style="list-style-type: none"> 1. the court process, including alternative dispute resolution and testifying 2. interviewing techniques 3. support services available to guardians <i>ad litem</i> 4. report drafting 5. recordkeeping 6. investigation and assessment skills 7. attorney/guardian <i>ad litem</i> roles and duties including ethical issues 8. negotiation skills 9. methods for minimizing the potential stress to the child or the child's family caused by the court process 10. cultural, ethnic, economic and social differences 11. social, emotional, physical, developmental, educational, vocational and psychological stages and needs of children 12. services and benefits available for children, i.e., school related issues; special education; health care issues; and government benefits 13. role and procedures of relevant agencies 14. relevant statutes, i.e., Child Welfare Reform and Adoption Act. <p>B. The appointing judge may waive the training qualifications if a finding is made that the person being appointed is qualified due to prior experience as a guardian <i>ad litem</i>, or is otherwise competent. Such finding shall be reflected in the appointment order. Guidelines for Guardians <i>ad Litem</i>, Training</p> <p>You will receive a free 30-hour training course to prepare you for your work as a GAL and receive ongoing support from GAL staff...A GAL volunteer learns about the community services available and making recommendations in the free 30-hour training course. http://scgal.org/state/faqs.html</p> <p>...</p> <p>(3) an attorney guardian <i>ad litem</i> must annually complete a minimum of six hours of family law continuing legal education credit in the areas of custody and visitation; however, this requirement may be waived by the court.</p> <p>(4) for initial qualification, a lay guardian <i>ad litem</i> must have completed a minimum of nine hours of continuing education in the areas of custody and visitation and three hours of continuing education related to substantive law and procedure in family court. The courses must be approved by the Supreme Court</p>
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	<p>Commission on Continuing Legal Education and Specialization.</p> <p>(5) a lay guardian ad litem must observe three contested custody merits hearings prior to serving as a guardian ad litem. The lay guardian must maintain a certificate showing that observation of these hearings has been completed. This certificate, which shall be on a form approved by Court Administration, shall state the names of the cases, the dates and the judges involved and shall be attested to by the respective judge.</p> <p>(6) lay guardians ad litem must annually complete six hours of continuing education courses in the areas of custody and visitation. Guidelines for Guardians <i>ad Litem</i>, Qualifications</p>
<p>8. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>The General Assembly shall provide the funds necessary for the South Carolina Guardian ad Litem Program to carry out the provisions of Sections 63-11-500 through 63-11-560 and 63-7-1990(B)(5). The General Assembly shall not provide any funding for a county guardian ad litem program. S.C. CODE ANN. § 63-11-570</p> <p>If a guardian <i>ad litem</i> is represented by an attorney, the court in its discretion may assess reasonable attorneys' fees and costs. S.C. FAM. CT. R. 12</p> <p>(a) Limitation on Fees. In all child abuse and neglect proceedings, the court shall grant to legal counsel appointed for the child subject to child abuse and/or neglect proceedings, a fee not to exceed One Hundred (\$100.00) Dollars. The court shall grant to a guardian <i>ad litem</i> appointed for a child subject to such proceedings a fee not to exceed Fifty (\$50.00) Dollars.</p> <p>(b) Exceptions. If the court determines that extraordinary circumstances require the award of a fee larger than that which is specified in this rule, the court shall set forth in its order the salient facts upon which the extraordinary circumstances are based and shall award a fee to appointed legal counsel or guardian <i>ad litem</i> in an amount which the court determines to be just and proper. S.C. FAM. CT. R. 22</p>
<p>9. Caseload Levels: Caseloads are of a manageable size</p>	<p>No explicit legal authority or requirements</p>