

# POLICY: WCO 9.00 GUARDIAN AD LITEM COMMITTEE

## A. Committee Composition

1. Composition of the Guardian ad Litem Committee:
  - a. Superior Court Administrator,
  - b. A Superior Court judicial officer,
  - c. At least two (2) Guardians ad Litem practicing in Whatcom County – with a preference for one from Title 11 registry and one from Title 26 registry, and
  - d. One additional member at Court Administrator’s discretion.

## B. Committee Responsibilities

The Guardian ad Litem Committee’s duties shall be to accept applications for inclusion on Title 11 and Title 26 Registries, recommend criteria for appointees, and determine those who will be on the Registries of appointees, and otherwise administer and maintain said Registries.

Any modification of criteria for appointment to a Guardian ad Litem registry will first be referred to the Whatcom County Superior Court Judges for approval.

The Guardian ad Litem Committee shall cause complaints or grievances to be investigated and resolved pursuant to Whatcom County Superior Court Local Rules.

## C. Meeting Schedules

The Committee shall meet as needed.

# POLICY: WCO 9.01 GUARDIAN AD LITEM QUALIFICATIONS

This policy applies to the qualification and screening of Guardian ad Litem applicants for placement and/or annual updates on the Superior Court Guardian ad Litem Registry.

## A. SERVICE REQUIREMENT

Persons approved for placement on each registry serve at the discretion of the Court.

## B. APPLICATION REQUIREMENTS

(1) Application. Each person requesting to be listed on any of the registries shall initially, and if approved, annually thereafter submit an application on an approved form provided by the Court, which shall include:

- (a) Identification of the person, name of registry or registries applied for, and a listing of the professional credentials, with license or professional enrollment number;
- (b) Level of formal education, to include, but not limited to, degrees and major areas of concentration;
- (c) Training related to the Guardian ad Litem duties;
- (d) Number of years experience as Guardian ad Litem;
- (e) Number of appointments as a Guardian ad Litem (including mentored cases) and in which counties the appointments were made;
- (f) Statement of no criminal history;
- (g) Description of fees charged by the applicant;
- (h) A statement of the applicants willingness to accept cases where compensation is sought at public expense, if applicable;
- (i) Agreement to advise the Court immediately in the event of any complaint, investigation, or action being commenced which could lead to:
  - (i) Discipline of the applicant,
  - (ii) Suspension or revocation of the applicant's professional license,
  - (iii) Filing of criminal charges for a felony or a crime involving allegations

of theft, dishonesty or moral turpitude.

(2) Certification. The applicant shall certify that he or she:

- (a) Has met the education and experience requirements,
- (b) Has completed the training and mentoring requirements,
- (c) Has read and agreed to be bound by the Court's policies in cases where compensation is sought at public expense, if applicable, and
- (d) Has read and has agreed to be bound by Guardian ad Litem Code of Conduct (WCO 9.06 below).

### C. SUPPORTING DOCUMENTATION

1) Each person requesting to be listed on any of the registries shall initially, and if approved, annually thereafter submit the following supporting documentation:

- (a) Copy of the certificate from the training provider evidencing successful completion of the current training required for the area of Guardian ad Litem practice;
- (b) Curriculum vitae or resume showing work and professional or personal experience in or related to the field that would assist in the performance and completion of Guardian ad Litem duties;
- (c) If applicable, documentation of successful completion of mentorship (see Section E 2);
- (d) Description of the nature, status and outcome of any professional complaints, investigations or disciplinary actions, lawsuits or professional liability claims, and any order for removal of the Guardian ad Litem prior to completion of the Guardian ad Litem duties;
- (e) Description of any claims, or litigation that has been commenced, involving allegations of improper fee charges, charges of fraud, theft or other forms of dishonesty or professional malpractice or misconduct;
- (f) Completed Washington State Patrol (WSP) forms for criminal records checks, including fingerprinting;
- (g) If applicable, documentation of successful completion of orientation to local practices (see Section E 3);
- (h) Has read and has agreed to be bound by Guardian ad Litem Code of Conduct (WCO 9.06 below).

## D. EDUCATION AND/OR EXPERIENCE REQUIREMENTS

### (1) Guardians ad Litem for Title 11 Registry

- (a) Applicants for the Title 11 Registry shall meet the education and/or experience requirements mandated by RCW 11.88.090.
- (b) Nothing in RCW 11.88.090 prohibits the Whatcom County Superior Court from adopting additional requirements regarding education and/or experience, if necessary.
- (c) Applicants have read and agreed to be bound by Guardian ad Litem Code of Conduct (WCO 9.06 below).

### (2) Guardians ad Litem for Title 26

- (a) Attorneys– Initial Applicants
  1. Member of the Washington state Bar Association in good standing AND
  2. Two (2) years of experience in the practice of family law and/or dependency law; AND
  3. Proof of successful completion of mentorship requirements (E below); AND
  4. Proof of completion of court-approved orientation on Whatcom practices, forms and reports; AND
  5. Proof of successful completion of Guardian ad Litem training as required by Title 26, AND
  6. Has read and has agreed to be bound by Guardian ad Litem Code of Conduct (WCO 9.06 below).
- (b) Non-Attorneys - Initial Applicants
  1. Proof of successful completion of Guardian ad Litem training as required by Title 26 and has sufficient training and experience in family law cases, AND
  2. Bachelors Degree in any of the following fields: social work, psychology, counseling, nursing, education or equivalent field and two (2) years of relevant experience; OR
  3. Certified or licensed by the State of Washington as a social worker, mental health therapist or marriage and family counselor,

psychologist, nurse or physician, in good standing and two (2) years of relevant experience; OR

4. Graduate level degree in any of the following fields: social work, psychology, counseling, nursing, medicine, education or equivalent field; OR
5. Three (3) years of experience as a Volunteer Guardian ad Litem (VGAL)/Court Appointed Special Advocate (CASA), presently in good standing, with two (2) completed cases; AND
6. Proof of successful completion of mentorship requirements (E below); AND
7. Proof of completion of court-approved orientation on Whatcom practices, forms and reports; AND
8. Has read and has agreed to be bound by Guardian ad Litem Code of Conduct (WCO 9.06 below).

(c) Annual Re-certification (attorneys and non-attorneys)

1. For each registry, proof of minimum of 7.5 related CEs in the prior 12 months; AND
2. Updated WSP criminal history; AND
3. Declaration attesting to no founded complaint or action resulting in removal by a registry or licensing agency; AND
4. Has read and has agreed to be bound by Guardian ad Litem Code of Conduct (WCO 9.06 below).

## E. MENTORSHIP AND ORIENTATION

1. Mentors shall:

- a. Be in good standing on the Whatcom County Title 26 GAL registry;
- b. Have five (5) years experience as a GAL with 4 completed cases as primary GAL;
- c. If applicable, may be interviewed by the GAL Advisory Committee; and
- d. Comply with mentorship requirements below.

2. Mentorship requirements:

- a. Completed application for registry;

- b. Initial interview with GAL Advisory Committee;
- c. Assignment to court-approved mentor;
- d. Completion of one case with mentor as primary GAL;
- e. Completion of one case with same mentor delegating some duties to applicant;
- f. Recommendation by mentor to Whatcom County GAL Advisory Committee as to suitability of applicant for inclusion on GAL registry; in addition, mentor shall advise mentee, or the GAL Advisory Committee, at any time of any additional training needed outside the mentorship.;
- g. Orientation as to local practices (see #3 below).

3. Orientation:

- a. Review of Whatcom County policy, including code of conduct and ethics;
- b. Review of local forms;
- c. Review of applicable local court rules.

## F. CHARACTER AND/OR BACKGROUND INFORMATION

A person may be denied listing on, or may be temporarily suspended from, the registry for any other reason that places the suitability of the person to act as Guardian ad Litem in question.

Inclusion or maintenance of any person on any registry is within the sole discretion of the Guardian ad Litem committee and/or Whatcom County Superior Court Bench.

The applicant should be of high moral character, shall not have been convicted of a felony, and shall not have any of the following within the last twenty (20) years:

- (a) A professional certification or license suspension or revocation;
- (b) Pending investigations or actions.

## G. ON-GOING TRAINING

The Court may periodically sponsor or approve training programs that applicants shall be required to attend to maintain and improve their level of proficiency.

# **POLICY: WCO 9.02 REGISTRY ADMINISTRATION**

## **A. GUARDIAN AD LITEM REGISTRY**

The Superior Court Administrator/designee is responsible to create and maintain a list of Guardians ad Litem under RCW Chapters 26.09, 26.10, 26.26, 11.88 and SPR 98.16W.

## **B. REGISTRY ADMINISTRATION**

The Court shall maintain and administer the Guardian ad Litem registries through the Superior Court Administrator and the Guardian ad Litem Committee. The adoption and minor settlement registries will be maintained principally for informational purposes, and will not actually be managed and/or monitored.

The Title 11 and Title 26 registries shall not include any Voluntary Guardian ad Litem or CASA programs. Those programs will continue to be administered separately by their respective programs.

## **C. ANNUAL UPDATE**

Deadline for updated materials to be submitted to the Court Administrator is October 1 of each year.

The Superior Court Administrator shall advise, in writing, each person listed on the registry of the annual update of information and the date by which that update must be received by the Court.

## **D. REGISTRY APPOINTMENT REQUIREMENT**

Persons approved for placement on each registry serve at the discretion of the Court and/or the Guardian ad Litem Advisory Committee.

## **E. APPLICATION PROCESS**

The Superior Court Administrator shall do initial screening and then referral shall be made to the Guardian ad Litem Committee for review and action.

Applications for fall review will be accepted no earlier than July 1 of the same year.

## **F. CRITERIA FOR REGISTRY**

The Court will consider applications as follows:

1. Having a sufficient number of qualified Guardians ad Litem,
2. Achieving and maintaining diversity,
3. Retaining panels of persons with substantial experience and special knowledge within the given field,
4. Maintaining panels of persons with the ability to promptly, professionally and capably fulfill the role and duties of a Guardian ad Litem.

Each applicant will be required to acknowledge he or she has read and has agreed to be bound by the Code of Conduct of Guardians ad Litem, completion of the orientation to local practice, and completion of mentorship if applicable.

## **G. RETENTION ON REGISTRIES**

A person shall not remain on the registry unless the person maintains a current application with required attachments. A person may be removed or suspended for cause after a review by the Guardian ad Litem Advisory Committee. A GAL may be immediately suspended by the Superior Court Administrator in case of emergency, and subject to timely review by the GAL Advisory Committee.

The Guardian ad Litem Advisory Committee may review a Guardian's ad Litem conduct as part of the annual re-certification, or upon request of the Superior Court Administrator after review of a complaint or

## **H. RE-APPLICATION TO REGISTRY AFTER DISCIPLINE**

A Guardian ad Litem who has been removed from the registry under this section may reapply to the registry no sooner than twenty-four (24) months after removal.



# POLICY: WCO 9.03 GUARDIAN AD LITEM APPOINTMENTS

This policy applies when the need arises for the appointment of a Guardian ad Litem in a case involving a subject area for which there is a registry.

## A. APPOINTMENT

The Court shall appoint a person from the registry maintained by the Court Administrator. Title 11 GALs shall be appointed in strict rotation from the registry list unless exigent circumstances warrant otherwise.

Appointments of a Guardian ad Litem in all cases shall be on the form required by the Court.

## B. COURTS DISCRETION

Appointments from the registries shall be made in the exercise of the Court's sound discretion. The court may, but is not obligated to, appoint a person whom all the parties have stipulated to serve as Guardian ad Litem. Agreement of all parties will not suffice when there is an allegation that one or more of the parties is under a legal disability.

In making appointments, the Court will consider, among other factors, the facts of the case, and the skills, experience and knowledge of persons on the registry.

Consistent with Whatcom County policy, employees of Whatcom County Superior Court are not eligible to take private-pay Whatcom County Guardian Ad Litem cases.

## C. GUARDIAN AD LITEM UNAVAILABILITY

Persons on each registry shall promptly inform the Court in writing, through the Superior Court Administrator, of any temporary unavailability to serve, or of the intent to resign from the registry. Such temporary unavailability shall include, but not be limited to, vacation periods and periods when a person on the registry cannot accept additional appointments without impacting current appointments (i.e. heavy workloads).

# **POLICY: WCO 9.04 GUARDIAN AD LITEM RECORDS**

This policy applies to the maintenance and disclosure of information related to Guardians ad Litem.

## **A. PUBLIC ACCESS RECORDS**

The Superior Court Administrator shall maintain an application form and background record pertaining to each person listed on the registry.

Persons listed on a registry shall update information on file annually, on a date specified for each registry.

The application form, curriculum vitae or resume, training certificates and certificates of qualification for each person listed on a registry will be available for the public through the Court Administrator.

## **B. CONFIDENTIAL RECORDS**

The Superior Court Administrator/designee shall maintain a separate file for each person determined qualified to be placed on the registry. This file shall contain the information specified above. The file shall also contain other information pertaining to the person's qualification, performance and ability to serve as a Guardian ad Litem, including any complaints received or performance evaluations. This file will not be available for public review.

# **POLICY: WCO 9.05 GUARDIAN AD LITEM PAYMENT**

This policy applies to the payment process of Guardian ad Litem performance within their duties for Superior Court.

No Guardian ad Litem shall be required to provide services without payment. All Orders appointing a Guardian ad Litem shall contain language to that effect.

In cases of indigency, the Superior Court Bench may adopt a fee scale from which Guardian ad Litem payments shall be administered. The Superior Court Administrator/designee is responsible for the application of the Court's payment policies and procedures.

Every Order Appointing Guardian ad Litem shall include, in Section 3.5 "Payment" the following language:

The guardian ad litem fee is \$\_\_\_\_\_ per hour up to \$\_\_\_\_\_, the maximum the guardian ad litem may charge without agreement by the parties or additional court review and approval.

The fees and costs of the guardian ad litem shall be paid as follows:

[ ] \_\_\_\_\_ % by father and \_\_\_\_\_ % by mother \_\_\_\_\_ % by other :  
\_\_\_\_\_

[ ] Other: Before the guardian ad litem is required to begin his/her duties, the petitioner must pay fees of \_\_\_\_\_\$ and the respondent \$\_\_\_\_\_.

The guardian ad litem will provide the parties with an itemized accounting of time, billing and costs for services each month. Payment is due within fifteen days after billing each month. Should a party disagree with an amount billed, he or she shall immediately contact the Guardian ad Litem to discuss the billing. If the matter is not resolved, the party shall note the matter upon the court's calendar for review and notify the guardian ad litem of the date and time of the hearing. A party shall be liable to the guardian ad litem for court costs, interest and attorney fees if collection action is required because payment was not made on time.

The parties' obligation to pay guardian ad litem fees and costs is reasonably related to their support obligation and may be enforced by contempt proceedings at any time notwithstanding the entry of a final decree or order of dismissal of this action. At a contempt hearing, the responding party has the burden of establishing a justifiable excuse for non-payment. If non-payment is not excused, the party may be subject to jail time, fines, attorney fees, and other compensatory relief.

The total amount awarded shall be at the discretion of the court after the guardian ad litem/investigator/lawyer files an itemized statement of time with the court, along with a specific request for fees and a proposed Order.

Guardians ad Litem appointed in indigent cases are responsible to manage their assigned cases.

All bills must be timely and itemized with a copy of the Order Appointing the Guardian ad Litem submitted at the time of billing.

Private pay Guardian ad Litem cases shall be governed by RCW 26.12.175(d).

## **POLICY: WCO 9.06 GAL Code of Conduct**

New GALs must familiarize themselves with local practice by completing the GAL orientation. Sessions will be sanctioned by the Court and offered by experienced court-approved GALs.

Experienced GALs are encouraged to mentor new GALs, as outlined in 9.01 (E)..

Experienced GALs, with approval of Court Administrator, are encouraged to volunteer to serve on the Court's GAL Advisory Committee, or other ad hoc committees as needed.

Each GAL is responsible for being aware of changes to Washington State Court Rules, Rules of Superior Court.

## **POLICY: WCO 9.07 OTHER PROVISIONS**

Every Order Appointing Guardian ad Litem shall contain the following provisions:

In paragraph 3.4:

Within the scope of appointment, the guardian ad litem shall have access to all Municipal Court, District Court, Superior Court and Juvenile Court files, including any sealed/confidential portions thereof, other than records sealed pursuant to RCW 13.50.050(7). All information obtained from sealed or confidential files shall remain sealed or confidential, and the guardian ad litem shall inform the court if the guardian ad litem report contains sealed or confidential information.

In paragraph 3.7:

Each party's signature hereunder constitutes an authorization for release of information by that party to the agencies listed in paragraph 3.4 above and any/all records of mental health providers, substance abuse evaluation/treatment records, medical records, Department of Licensing, and probation/parole records for themselves. This release authority expressly applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPA), Federal Confidentiality Regulations, 42 USC 1320d, 290dd-3 and 45 CFR 160-164, specifically apply to treatment of HIV, STD, psychiatric disorders, mental health, and/or drug/alcohol use and treatment.