



## Notice of Intent to Adopt Rules

### 1. General Information

a. Agency/Board Name: <i>See attached list for references</i>		
b. Agency/Board Address	c. Agency/Board City	d. Agency/Board Zip Code
e. Name of Contact Person	f. Contact Telephone Number	
g. Contact Email Address		
h. Date of Public Notice:		i. Comment Period Ends:
j. Program(s) <i>See attached list for references</i>		

### 2. Rule Type and Information

a. Choose all that apply:     New Rules\*     Amended Rules     Repealed Rules  
*\* "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.*

If "New," provide the Enrolled Act number and year enacted:

b. Provide the Chapter Number, and Short Title of Each Chapter being Created/Amended/Repealed *(if more than 5 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification)*

Chapter Number:	Short Title:
Chapter Number:	Short Title:
Chapter Number:	Short Title:
Chapter Number:	Short Title:
Chapter Number:	Short Title:

c.  The Statement of Reasons is attached to this certification.

d.  N/A     In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Section 5 of the Rules on Rules).

e. A copy of the proposed rules\* may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

\* If Item "d" above is not checked, the proposed rules shall be in strike and underscore format.

**3. Public Comments and Hearing Information**

a. A public hearing on the proposed rules has been scheduled.  Yes  No

	If "Yes:"	Date:	Time:	City:	Location:

b. What is the manner in which interested person may present their views on the rulemaking action?  
 By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members.  
Requests for a public hearing may be submitted:  
 To the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days, after adoption of the rule, addressed to the Agency and Contact Person listed in Section 1 above.

**4. Federal Law Requirements**

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements.  Yes  No

	If "Yes:"	Applicable Federal Law or Regulation Citation:

Indicate one (1):  
 The proposed rules meet, but do not exceed, minimum federal requirements.  
 The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:  
 To the Agency at the physical and/or email address listed in Section 1 above.  
 At the following URL: \_\_\_\_\_

**5. State Statutory Requirements**

a. Indicate one (1):  
 The proposed rule change *MEETS* minimum substantive statutory requirements.  
 The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please provide a statement explaining the reason the rules exceeds the requirements:

**6. Authorization**

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

**Distribution List:**

- Attorney General and LSO: Hard copy of Notice of Intent; Statement of Reasons; Clean copy of the rules; and Strike-through and underline version of rules (if applicable).
- Secretary of State: Electronic version of Notice of Intent sent to [rules@state.wy.us](mailto:rules@state.wy.us)



# Wyoming Guardians *Ad Litem* Program

Within the State of Wyoming, Office of the State Public Defender

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GOVERNOR

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ADMINISTRATOR & CFO

## STATEMENT OF REASONS

Statutory authority for the adoption and revision of the Wyoming Guardians *Ad Litem* Program Rules and Regulations is in Wyoming Statute § 14-12-101(c). In general, all changes are due to a change in procedure since adopting the rules in 2008; the Program Administrative Offices move; a change in contracts for the Program; or Senate File 99 from the 2012 Budget Legislative Session, which created statutory authority for the Program and changed the title of the Director of the Program, among other changes.

The Rules apply to attorneys acting as guardians *ad litem* (GALs) in juvenile court proceedings and contracted with or employed by the Wyoming Guardian *Ad Litem* Program. Most changes are not substantive. The large substantive changes are described below:

- Chapter 2, Section 2. Section 2(b)(i), 2(c) and 2(d) were added to the role of a guardian ad litem to better explain how the child's preferences, informed decision-making, and determination of a child's best interests interplay to form the attorney GAL's recommendations in cases. These additions are taken from national standards in the area of child welfare law and child representation.
- Chapter 2, Section 3. Section 3(b)(iv)(D) adds in language to address the formation of a new permanency unit and permanency attorney within the GAL Program to represent children in termination of parental rights and appellate proceedings in Wyoming.
- Chapter 2, Section 3. Section 3(b)(xv), 3(b)(xvi), and 3(b)(xvii) are additions to the general responsibilities of attorney GALs. These include details on establishing a professional attorney-client relationship with the client; the importance of motions practice; and the importance of participating in any settlement negotiations to expedite the resolution of the case.
- Chapter 2, Section 3. Section 3(d)(i) was added as a reminder that attorney GALs can file a motion with the court to add in additional MDT members when needed and in the best interests of their clients.
- Chapter 2, Section 3. Section 3(e) was added to focus on the importance of reviewing cases for appealable issues when in the best interests of the client.
- Chapter 2, Section 4. Section 4(b)(iii) and 4(b)(iv) adds provisions regarding training required by the CAPTA Reauthorization Act of 2010 and also a list of subject areas that GALs can acquire knowledge in.

Diane M. Lozano  
STATE PUBLIC DEFENDER

Ryan Roden  
DEPUTY STATE PUBLIC  
DEFENDER

empowering youth and families through legal advocacy



- Chapter 2, Section 6. The caseload change in this section is merely an administrative revision, as internally the GAL Program defines a client caseload as anything below five clients and above five clients, due to the ever-changing nature of caseloads. For example, a 40 client caseload is anything between 35 and 45.
- Chapter 2, Section 7. This Section was deleted as part-time state public defenders are no longer able to also have a contract with the Wyoming GAL Program, due to conflicts between the divisions, as well as tax implications.



THE STATE



OF WYOMING

Office of the  
State Public Defender

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**Rules and Regulations for the  
Guardians *Ad Litem* Program**

Additional information and copies may be obtained from:

Wyoming Guardians *Ad Litem* Program  
Rogers Building, Basement  
316 West 22<sup>nd</sup> Street  
Cheyenne, WY 82002  
Telephone: (307) 777-7480  
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Website: <http://gal.state.wy.us>

This document is available in alternative format upon request.

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**Guardians *Ad Litem* Program  
Rules and Regulations**

**Chapter 1**

**GENERAL PROVISIONS**

**Section 1. Authority.**

These rules are promulgated by the Office of the Wyoming State Public Defender (“Office”) pursuant to Wyoming Statutes §§ 14-12-101 through 14-12-104, and the Wyoming Administrative Procedures Act at W.S. 16-3-101, *et seq.*

**Section 2. Purpose and applicability.**

(a) The purpose of the Guardians Ad Litem Program (“Program”) is to contract with, supervise and manage attorneys providing legal representation as guardians ad litem in child protection cases under WYO. STAT. ANN. §§ 14-3-101 through 14-3-440, children in need of supervision cases under WYO. STAT. ANN. §§ 14-6-401 through 14-6-440, or termination of parental rights (“TPRs”) actions under WYO. STAT. ANN. §§ 14-2-308 through 14-2-319 brought as a result of a child protection or children in need of supervision action. The Program and these Rules apply only to these three types of juvenile actions and proceedings and any appeals that arise from these proceedings. The Program does not apply to a juvenile delinquency proceeding except that an attorney appointed to serve only as a guardian ad litem in a case in which a child has been charged with the commission of a delinquent act may, subject to these Rules, be eligible for compensation under the Program. In such a situation, these Rules would then apply to that guardian ad litem and his or her GAL representation of the alleged delinquent child.

(b) The Office may issue policies, manuals, bulletins, or other documentation interpreting the provisions of these rules and regulations. All policies, manuals, bulletins and other documentation shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in such documentation shall be interpreted in favor of these rules and regulations.

**Section 3. Citation.**

Citation to these rules shall be “Wyoming Guardians *Ad Litem* Program Rules and Regulations,” or more simply “GAL Rules.”

**Section 4. Policy.**

(a) The following excerpts from the National Association of Counsel for Children’s (NACC) *NACC Recommendations for Representation of Children in Abuse and Neglect Cases (2001, available at [www.naccchildlaw.org](http://www.naccchildlaw.org))* are adopted by the Office as the policy guidelines of the Program:



(i) Each child is valued as a unique human being, regardless of race, ethnicity, religion, age, social class, physical or mental disability, gender, or sexual orientation.

(ii) Each child is vested with certain fundamental rights, including a right to physical and emotional health and safety. In order to achieve this, we must promote legal rights and remedies for children, including empowering children by ensuring that courts hear and consider their views in proceedings that affect their lives.

(iii) Every child subject to a child protection proceeding must be provided an independent, competent, and zealous attorney, trained in the law of child protection and the art of trial advocacy, with time and resources to handle the case.

(iv) Children's attorneys play a critical role in empowering children and ensuring that children's views are heard in legal proceedings. Outcomes in our adversarial process are directly tied to the quality of legal representation. Additionally, the presence of children's attorneys is critical to ensuring the timeliness of proceedings.

(v) Children's attorneys play a critical role in advocating for permanency and for the continuation of familial relationships, family preservation and family and community placements where appropriate. The attorney must advocate for timely resolution and permanent resolution (absent compelling reasons to the contrary) of the case. The attorney must advocate for food, shelter, clothing, and safety, including a safe temporary placement where necessary and for educational, medical, mental health, and dental needs. Where appropriate, the attorney should advocate for continuation of appropriate familial relationships, family preservation services and against out-of-home placements.

(b) As NACC has found, attorneys representing children should have a combination of knowledge, training, experience, and ability which allow them to effectively discharge their duties to their children clients. To that end the Office will develop reasonable and enforceable rules for the provision of quality GAL services to children in all types of cases handled by the GALs.

(c) The Program and all Program GALs shall embody these policies and strive to fulfill those ideals. The child's attorney should not be merely a fact-finder, but rather, should zealously advocate a position on behalf of the child. In furtherance of that advocacy, the child's attorney must be adequately prepared prior to hearings. The attorney's presence at and active participation in all hearings is absolutely critical.

## **Section 5. Program implementation.**

The Office shall fully implement the intent of the legislature in enacting Wyoming Statutes §§ 14-12-101 through 14-12-104. As compensation from the Guardians *Ad Litem* Program may be available only as funds are provided by the Wyoming Legislature, the Program will be administered to fully utilize the authorized funds. The State Public Defender or her designee is the final authority in administering and operating the Guardians *Ad Litem* Program.

## **Section 6. General provisions.**

(a) Terminology. Except as otherwise specified, the terminology used in this chapter is the standard terminology and has the standard meaning used in all legal settings and contexts.

## **Section 7. Definitions.**

The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these rules, gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.

(a) “Best interests.” Refers to a determination of the most appropriate course of action based on objective considerations of the child’s specific needs and preferences. The determination of the best interests of the child should be based on objective criteria as set forth in the law that are related to the purposes of the proceedings. The criteria should address the child’s specific needs and preferences, the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment, and the use of the least restrictive alternatives available. This determination must include the presumption that it is in the child’s best interest to be with his or her parent(s), as outlined by the Wyoming Supreme Court per *In re Guardianship of MEO*, 2006 WY 87, 138 P.3d 1145 (Wyo. 2006).

(b) “Caseload.” Refers to the number of juvenile clients an attorney guardian *ad litem* has been appointed to represent in an open juvenile case. Caseload will be counted by clients, not cases, so if a case has three children, it will be counted three times.

(c) “Compensation.” Means money or other recompense given directly for the attorney guardian *ad litem* services provided and performed pursuant to the Program.

(d) “Contract.” Refers to the contract between an individual attorney and the Office, whereby the individual attorney promises to provide guardian *ad litem* services to the Program, pursuant to these Rules, Office policy, pertinent court rules and statutes, and the contract itself, in exchange for a certain rate or amount of money to be paid by the Office through the Program.

(e) “Deputy Director.” Refers to the Wyoming Guardians *Ad Litem* Program Administrator, an attorney employed by the Office of the State Public Defender to oversee the Program as a Deputy Director of the Office, the State Public Defender’s agent for the GAL Program, in order to avoid conflicts between the two divisions of the Office of the State Public Defender. The Deputy Director is also charged with acting as the Chief Financial Officer of the GAL Program to avoid any conflict between the GAL Program and the Office.

(f) “Full-time.” Refers to a one hundred percent (100%), full-time contract or employment. Means an employee or contractor is obligated to expend all of his work-time

exclusively for the Office or the Program, and may not be employed with or contracted by another entity.

(g) “Funding.” State funds appropriated and available to pay for guardian *ad litem* services. Funding does not include any other funds available to the Office that are not designated and appropriated for guardian *ad litem* services.

(h) “GAL.” Refers to attorney guardian, or guardians *ad litem*, who is, or are, certified by the Program Deputy Director to furnish guardian *ad litem* services and who have contracted with or who are employed by the Office to provide such services.

(i) “GAL Panel.” Refers to the list maintained by the Program Deputy Director and posted on the Program website of all attorneys certified and contracted with or employed by the Office to provide GAL services.

(j) “GAL Services.” Refers to the legal representation the GAL provides to the child client and all that is required to effectively and zealously represent the client including, but not limited to, the use of experts; investigation of discovery and records; and use of interpreters to communicate with the client.

(k) “Office.” The Office of the Wyoming State Public Defender, its agent, designee, or successor.

(l) “Part-time.” Refers to less than a full-time contract or full-time employment. Any contract or employment whereby the contractor is not obligated to exclusively and entirely perform his services only for the Office or Program. Part-time does not necessarily mean “half-time.” The contract between the contractor and the Office defines and determines its duration and quantity.

(m) “Permanency Attorney.” A GAL attorney employed or contracted with the Program to represent clients in termination of parental rights (TPR) and appellate proceedings. This attorney shall work closely with the GAL on the underlying juvenile matter while representing the client in the TPR or appellate proceeding.

(n) “Program.” The Wyoming Guardians *Ad Litem* Program codified pursuant to Wyoming Statutes §§ 14-12-101 through 14-12-104.

(o) “Rules.” Unless the context clearly requires otherwise, “Rules” means the Office of the Wyoming State Public Defender Guardians *Ad Litem* Program Rules and Regulations, of which this chapter is a part.

(p) “Shelter care hearing.” Means a hearing regarding the temporary care of a child in physically nonrestrictive facilities pending court disposition or execution of a court order for placement or commitment.

(q) “Supervisor.” Means an attorney who is a Guardian *Ad Litem* Program Supervisor.

(r) “TPR.” Refers to a termination of parental rights proceeding.

### **Section 8. Program administration.**

(a) The Office shall provide necessary administrative support and oversight for the Program. The Program Deputy Director, any supervisory attorney guardians *ad litem*, and the Permanency Attorney are authorized and may attend all proceedings in an action, including closed proceedings, to assess performance, oversee, or assist an attorney guardian *ad litem*, unless a conflict of interest exists.

(b) The Office shall require any attorney who seeks to contract with or be employed by the Office for legal representation of children as a guardian *ad litem* to meet the standards for guardians *ad litem* established by the Office, the Program and the Program Deputy Director.

(c) The Office shall, in its discretion, set standard fee schedules for guardian *ad litem* services.

(d) The Program and the Program Deputy Director shall ensure that the attorney guardians’ *ad litem* advice remains independent of private providers and the judicial system and, pursuant to Wyoming Statutes, that their recommendations consider cost impacts and savings to the state of Wyoming.

(e) Utilizing Program staff and supervising attorneys in each Program District, the Program will find a guardian *ad litem* available to take a new case and appear at the shelter care/detention hearing, upon notice from the Judge or County/District Attorney.

(i) If the court appoints the Program as the representative guardian *ad litem*, the Program, and therefore the Program Deputy Director, is the “attorney of record” and the Program shall assign the case to a guardian *ad litem*.

(ii) Any attorney appointed by the court, outside of the Program Deputy Director and not on the Program’s Panel, will not be reimbursed or compensated by the Office.

(iii) Nothing herein precludes the Program from appointing the University of Wyoming College of Law Clinics to a case. The clinic students serve as GALs under the direct supervision of a faculty supervisor and do not charge legal fees for their services.

(f) The Office and the Program shall establish joint protocols/policies to determine and resolve conflicts of interest. These protocols shall ensure that the Program will be, and will remain, separate and distinct from the Public Defender’s Criminal Defense and Juvenile Delinquency division(s), whose functions are outlined in the Public Defender Act (WYO. STAT. ANN. §§ 7-6-101 *et. seq.*).

(g) The Office may negotiate and enter into contracts or memoranda of understanding with any individual or entity as necessary or convenient to facilitate the Office's duties under this Program and to adequately and sufficiently maintain, operate, and administer the Program.

(h) Each GAL on the GAL Panel will be evaluated yearly by the Program Deputy Director, the District Court Judges before whom they regularly appear, and any other stakeholders the Program may identify. Said evaluations will be considered when renewing contracts each year.

(i) The State Legislature has appropriated general fund monies to the Office each biennium for administration and operation of the Program. This appropriation shall only be expended for the purpose of administering the Program and providing GAL legal services to clients. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert at the end of each biennium as provided by law. A request for this appropriation shall be included in the Office's standard biennial budget requests.

**Section 9. Full-time guardians *ad litem*.**

A full-time attorney GAL shall not engage in private practice except to complete business pending at time of his/her employment or contract. A full-time GAL shall devote his/her full-time to performing GAL services as directed by the Deputy Director and is supervised by the Deputy Director.

**Section 10. Confidentiality.**

All information provided to the Program staff and GALs shall be confidential and shall not be released or admitted in a court proceeding unless otherwise ordered by a court. In no event shall communications between a child and the child's GAL be admitted, without the child's informed consent, even if that information has been provided to Program staff. In a case where a child is unable to give "informed consent" to such a release of privileged communication, the decision of whether to waive the attorney-client privilege is reserved to the GAL. Finally, under Rule 1.6(b) of the Wyoming Rules of Professional Conduct, a GAL may reveal confidential information relating to the representation, without informed consent, to the extent the GAL reasonably believes it is necessary to protect the best interests of the client.

**Section 11. Other legal protections or sanctions.**

The protections provided by these Rules do not exclude any protection or sanction that the law otherwise provides.

**Section 12. Interpretation of Rules.**

(a) The order in which the provisions of the chapters of these Rules appear is not to be construed to mean that any one provision is more or less important than any other provision.

(b) The text of the chapters of these Rules shall control the titles of its various provisions.

**Section 13. Superseding effect.**

The chapters of these Rules supersedes all prior rules or policy statements issued by the Office, which may be inconsistent with the chapters of these Rules.

**Section 14. Severability.**

If any portion of the chapters of these Rules is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

## Chapter 2

### STANDARDS, CERTIFICATION AND TRAINING

#### Section 1. Applicability.

(a) These standards set forth the obligations of GALs in Abuse/Neglect, CHINS, Delinquency, TPR, and Appellate proceedings.

(b) Nothing herein shall be applied in a way that limits or compromises the child's right to counsel in a child in need of supervision or delinquency action.

(c) All GALs who provide services for the Program pursuant to these Rules shall be admitted to practice law in Wyoming, shall be in good standing with the Wyoming State Bar, and shall complete an initial training program to the Program Deputy Director's satisfaction.

#### Section 2. Role of attorney guardian *ad litem*.

(a) The attorney guardian *ad litem* hybrid model is the model referred to whenever "attorney guardian *ad litem*" is set forth herein. This model provides an attorney to represent the child and instructs the attorney to represent the child's "best interests." Rather than taking direction from the client, as is the case in traditional attorney representation of adults, the attorney guardian *ad litem* is charged with forming the client's position by using his/her own judgment as to the child's "best interests." The attorney guardian *ad litem* is required to consider the child's wishes and preferences when determining the child's best interests, but he or she is not bound by them as in the traditional attorney-client relationship. If the attorney guardian *ad litem* determines that the child's expressed preference is not in the best interests of the child, both the child's wishes and the basis of the attorney guardian *ad litem*'s disagreement must be presented to the court.

(b) Client Preferences. The attorney guardian *ad litem* should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance, including explaining to the child what recommendations the GAL is going to make and why she is making them.

(i) The guardian *ad litem* should ensure the child's ability to express his preferences by structuring all communications to account for the individual child's age, developmental level, level of education, cultural context, disability if any, and degree of language acquisition.

(c) As counselor and advisor to the child, the GAL should provide the child with an informed understanding of the child's legal rights and obligations and explain their practical implications. The GAL should explain all aspects of the case and provide comprehensive counsel and advice on the advantages and disadvantages of different case options to assist the child in identifying case goals and making informed decisions. During these discussions, the GAL

should address the child's legal rights and interests as well as issues regarding the child's safety, health and welfare.

(d) If the child is pre-verbal or unable to communicate their preferences, the determination of the child's legal interests should be based on the laws that are related to the purposes of the proceedings; the child's specific needs and objective best interests determination; the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment; and the use of the least restrictive alternatives available and appropriate for the child.

### **Section 3. General responsibilities of attorney guardian *ad litem*.**

(a) Notwithstanding any additional conditions imposed by order of the court, an attorney guardian *ad litem* in a juvenile court case shall possess the knowledge and training necessary to perform the court appointment; and shall be subject to all of the rules and standards of the legal profession.

(b) An attorney guardian *ad litem* appointed pursuant to this rule shall specifically:

(i) Establish and maintain competence of the applicable legal and ethical standards, including relevant court rules, federal and state law, case law, agency rules and regulations and local practice;

(ii) Be familiar with recognized standards and best practice procedures in child welfare, protection and juvenile matters;

(iii) Due to the high co-occurrence of child abuse/neglect and domestic violence, be familiar with the dynamics of domestic violence, the rate of co-occurrence between child abuse and domestic violence, the barriers to leaving a violent relationship and how domestic violence may affect children and their parents or caregivers, and how to determine if domestic violence exists in a particular case; and how to competently account for it in case planning;

(iv) Conduct a full and independent case investigation in a timely manner, which shall include, at a minimum:

(A) Obtaining information about the child and the circumstances that led to the filing of the petition, which shall include obtaining copies of all pleadings and relevant notices;

(B) Meet with and observe the child's interaction with the caregivers, which includes meeting with and observing the child at home or in placement, even if a Court Appointed Special Advocate (hereinafter "CASA") or other child or family advocate is, or has been, involved in the case; and



(C) Personally meet with or observe the child in a timely manner, even if a CASA or other child or family advocate is, or has been, involved in the case, dependent on the child's age and capabilities.

(D) Failure of the GAL to fulfill the requirements of (A), (B) and (C), above, may result in non-payment of the entire bill for the case, and may result in immediate termination of the contract or employment. (B) and (C) do not apply to any GAL Permanency Attorneys with the Program, as it may not always be in the child's best interests to meet with another attorney. Although, the Permanency Attorney can meet with the client if necessary in the TPR or appellate proceeding.

(v) Insofar as is practical, counsel the child concerning the subject matter of the litigation, the attorney's role, the child's rights, the possible outcomes of each proceeding, and the consequences of the child's participation or lack of participation;

(vi) If placement is necessary, prior to making a recommendation for out-of-home placement at a hearing, MDT or in the GAL Report, a GAL shall research and consider alternative community programs, treatments and family preservation services available to the family, only to the extent reasonably possible;

(vii) Independently identify and advocate for appropriate family and professional resources for the child and be familiar with the knowledge of experts and their possible input and role in the cases;

(viii) Participate in depositions, negotiations, discovery, pretrial conferences, multi-disciplinary team meetings and hearings, including review hearings;

(ix) Independently verify and advocate for timely resolution and permanent resolution (absent compelling reasons to the contrary) of the case;

(x) Make independent recommendations, with an emphasis on community services most likely to preserve families, continued appropriate familial relationships and avoidance of out-of-home placement, when appropriate;

(xi) In recognition of federal law encouraging the presence of children at hearings in which they are the subject and in recognizing the best interests of the child, children should attend all significant court hearings, unless, for their best interests, they should be excluded. A decision to exclude the child from the hearing should be made based on a particularized determination that the child does not want to attend, is too young to sit through the hearing, would be severely traumatized by such attendance, or for other good reason would be better served by nonattendance. The lawyer should consult the child, therapist, caretaker or any other knowledgeable person in determining the effect on the child of being present at the hearing. The lawyer should also ensure that the state/custodian meets its obligation to transport the child to and from the hearing and ensure the presence of someone to accompany the child any time the child is temporarily absent from the hearing;

(xii) After the hearings, review the court's orders to ensure the written orders conform to the court's oral orders, as well as comply with statutorily required findings and notices;

(xiii) Monitor and advocate for timely implementation of the case and/or permanency plan, the court's orders and communicate with the responsible agencies;

(xiv) Recognize that the obligation of the attorney guardian *ad litem* to the child is a continuing one and does not cease until the attorney guardian *ad litem* is formally relieved by court order or the court terminates its jurisdiction over the child. This continuing obligation includes any appeals or TPR proceedings that may result from the case in which the GAL has been appointed, although a separately trained appellate or TPR attorney may be assigned to represent the child on the TPR case or appeal. In the event of an appeal or TPR proceeding, a GAL shall immediately notify the Deputy Director so she may assign the case;

(xv) Establish a trusting, professional relationship and maintain an attorney-client relationship with the client that will enable the GAL to understand the child's interests and needs, as well as the child's position on issues or questions in the case. Communication should include the following elements and also comply with Program policy:

(A) Provide the child and the child's caretaker with contact information in writing and establish a message system that allows regular attorney-client communication;

(B) Speak respectfully regarding the child's parents, family and cultural background; and

(C) Advise the child about all legal matters related to the case in a developmentally appropriate manner;

(xvi) The GAL should timely file pleadings when necessary, such as: petitions, reports, motions, responses or objections to advocate for the child's preferences and the child's best interests. Relief requested may include, but is not limited to:

(A) A mental or physical examination of a party or the child;

(B) An increase, decrease, or termination of contact or visitation;

(C) Moving for or preventing a change of placement;

(D) Contempt for non-compliance with a court order, in accordance with the Juvenile statutes;

(E) Change of the permanency plan;

(F) Request services for child or family;

(G) Dismissal of petitions or motions; and

(H) Appeals on behalf of the child to the Wyoming Supreme Court;

and

(xvii) The GAL should participate in settlement negotiations to seek expeditious resolution of the case, keeping in mind the effect of continuances and delays on the child and in a manner consistent with the child's preferences and best interests.

(c) A GAL's failure to do any of the foregoing may result in termination of the contract or employment.

(d) *Multidisciplinary team responsibilities.* A GAL shall attend, in person unless extraordinary circumstances require attendance by telephone, all pertinent multidisciplinary team ("MDT") meetings/hearings, in the child's best interests. A GAL shall participate, in the child's best interests, as a MDT member in reviewing the child's personal and family history, school records, mental health records and Department of Family Services records and any other pertinent information, for the purpose of making case planning recommendations. If a GAL cannot attend a MDT team meeting in person or by telephone, he/she shall submit written reports and recommendations to the other team members and to the court prior to the meeting. Any failure to attend a pertinent MDT team meeting/hearing may result in non-payment of bills and/or termination of the contract or employment.

(i) The GAL shall motion the Court to add additional members to the MDT team when such addition benefits the child's preferences or best interests (i.e. the child, APS, a service provider, etc.).

(e) All GALs shall consult with their clients and evaluate any appealable issues as they arise. Before filing an appeal or a brief in response to an appeal with the Wyoming Supreme Court, the GAL shall submit the case to the Deputy Director for review. The appeal may be assigned to a specially trained appellate GAL when applicable, so prompt notification to the Deputy Director is necessary.

#### **Section 4. Qualifications and training.**

(a) Before the Office may contract with an attorney to provide attorney guardian *ad litem* services for the Program, the attorney must satisfy certain minimum training qualifications in addition to the requirements set forth by these Rules above.

(b) The Program will contract with and employ attorneys only from the ranks of qualified attorneys. Contracts, employment, appointments and assignments will not be made without regard to prior training or practice. Competence requires relevant training and experience. Attorneys assigned as attorney guardians *ad litem* pursuant to these Rules and the Program shall be subject to all of the rules and standards of the legal profession.

(i) *Initial training.* A lawyer shall not be qualified for an initial contract, employment, appointment or assignment (for placement on the GAL Panel) pursuant to these Rules and the Program unless the attorney has received within the two (2) years prior to applying for certification with the Program, ten (10) or more live hours of child related training accredited by the Wyoming State Bar, or the attorney otherwise provides evidence acceptable to the Deputy Director that he or she has recent training, experience, or both, which is reasonably equivalent.

(A) The Program Deputy Director will decide on a case-by-case basis what constitutes “child-related training.” The Deputy Director may also require a specific training course or materials to qualify for initial training.

(B) Any training offered by the NACC or the Program constitutes child-related training.

(C) If an attorney is removed from the GAL Panel after their initial training for a period of two (2) years or more, they must again complete the required initial ten (10) hours of training before being reinstated on the GAL Panel.

(D) This paragraph does not apply to subsections (c) or (d) of Section 4, below.

(E) The new contractor or employee will also have to complete initial training to the satisfaction of the Program Deputy Director upon their start with the Program.

(F) This paragraph also does not apply to the law students supervised and practicing under faculty attorney supervisors at the University of Wyoming College of Law Clinics. It does apply to the faculty attorney supervisors.

(ii) *Continuing training.* In order to remain on the GAL Panel and be eligible for appointments, the attorney GAL shall obtain five (5) live hours of continuing legal education per legal education reporting year. These five (5) live hours shall be multidisciplinary, child-related training and relevant to an appointment in Juvenile Court proceedings.

(A) The Deputy Director has the additional authority and discretion to require all Program GALs to obtain training in addition to the minimum five (5) hours of continuing legal education when necessary.

(B) This paragraph also does not apply to the law students supervised and practicing under faculty attorney supervisors at the University of Wyoming College of Law Clinics. It does apply to the faculty attorney supervisors.

(iii) In accordance with Child Abuse Prevention and Treatment Act Reauthorization of 2010 (P.L. 111-320), all GALs, before assignment to any case shall have training on their role as a GAL in Wyoming and specific training on “early childhood, child, and adolescent development.”

(iv) All training shall be approved by the Deputy Director based on the requirement that the GAL acquire sufficient knowledge in a wide range of subject areas including but not limited to:

(A) All relevant federal and state laws, regulations, policies, rules, and relevant court decisions;

(B) Infant, young child, and adolescent development needs and abilities, including the impact of trauma, mental health disorders, and disability;

(C) Developmentally appropriate interviewing and counseling skills;

(D) The role of the GAL in Wyoming and his or her ethical responsibilities to the client;

(E) Racial disproportionality within the child welfare system;

(F) Other biases that operate within the child welfare system and the juvenile justice system that could interfere with the ability of the GAL to successfully advocate for the child's preferences and best interests;

(G) Cultural competency;

(H) The types of experts who can consult with attorneys on various case issues;

(I) Family dynamics and dysfunction such as domestic violence, substance abuse, and mental health;

(J) The use of relative and kinship care;

(K) Child welfare, family preservation, and juvenile justice services available in the community;

(L) The role and authority of the Wyoming Department of Family Services and both public and private organizations within the child welfare and juvenile justice system; and

(M) An awareness and appropriate level of understanding of the ancillary legal systems and issues that impact children and youth in the dependency and juvenile justice system, such as educational issues, family law, offender matters, public benefits, immigration, child support, guardianship, adoption, substance abuse, developmental disabilities, and mental health disorders.

(c) *Successful completion of the University of Wyoming College of Law's Children and Law course (or equivalent thereof).* Any attorney who has, while in law school, successfully

completed the Children and the Law course at the University of Wyoming College of Law, or an equivalent course there or at another ABA accredited law school, will be deemed to have fulfilled the ten (10) hour initial training set forth in paragraph (i). This shall apply retroactively. Proof of this successful completion will be required in the form of an official certified transcript from Law School.

(d) Persons having successfully completed their second year of law school, successfully completed at least one semester in the UW Law School Legal Services or DV LAP Legal Clinics, and attended at least ten (10) hours of Program training with the clinics and clinic faculty supervisors may count that training toward the Program's requirement found in Section 4(b)(i), initial training. Proof of these requirements will be required in the form of a letter from the clinic faculty supervisor confirming these requirements were met. Nothing in these Rules supersedes any State Bar licensing requirements or State Bar rules, regulations, policies or procedures.

(e) The Program shall ensure annual Continuing Legal Education (CLE) guardian *ad litem* training is available for all interested attorneys.

#### **Section 5. Selection of guardians *ad litem*; list of qualified GALs.**

(a) *Application process.* Any attorney who desires to contract with the Office to provide attorney guardian *ad litem* services for the Program may submit at any time a completed application to the Deputy Director. The application is available on the Program's website. Every completed application must be accompanied by a signed release of information authorization sufficient to enable the Deputy Director to independently verify the facts set forth in the application and freely check into the applicant's background and qualifications.

(i) Any attorney who previously provided an application to the prior GAL Program, but who has failed to maintain the continuing training requirements, or is otherwise presently unqualified under these Rules, must re-apply.

(ii) The Office may contract with the University of Wyoming College of Law's Clinics to provide GAL services on a non-fee basis.

(b) *Screening process.* Before an application is accepted by the Deputy Director for consideration for a contract, employment or inclusion on a list of guardians *ad litem* maintained pursuant to these Rules:

(i) The applicant shall be admitted to practice law in Wyoming and shall be an attorney in good standing with the Wyoming State Bar; and

(ii) The applicant's continuing legal education credits shall be verified by the Deputy Director and the Wyoming State Bar.

(c) *Yearly CLE Compliance Check.* An attorney must submit an updated affidavit to the Deputy Director every year to ensure that she or he is maintaining her or his qualifications

for such appointments. Failure to submit this affidavit or complete the requisite number of approved CLE hours will result in a termination of the GAL's contract or employment.

(d) *Factors to be considered in selection.* All pertinent factors shall be considered by the Office in the identification and selection of the attorney guardian *ad litem*. To be a guardian *ad litem*, the attorney must meet the minimum qualifications set forth in Ch. 2, §4, must have no conflict of interest regarding the case, must be certified by the Deputy Director, and be a Panel Attorney pursuant to these Rules.

(e) *Appointment order; specification of duties.* An attorney guardian *ad litem* shall not be appointed or serve except upon written order of the court. Once the court has appointed a Program GAL to a case, the Program is deemed to have been appointed. It is recommended that the court's order will set forth: the role of the guardian *ad litem*; the specific duties to be performed by the guardian *ad litem* in the case; deadlines for the completion of the duties set forth; and the duration of the appointment. Notwithstanding a court's order or any pertinent court rule or state statute, the Deputy Director shall oversee the appointment. Any attorney appointed by the court that is not contracted or employed by the Program will not be reimbursed or compensated by the Program.

(f) *Support, advice, and supervision.* The Deputy Director shall maintain a list of resources available in order to promote support, advice, and training to attorney guardians *ad litem* serving in the state. The Deputy Director, as well as any Supervisor at the direction of the Deputy Director, shall oversee the Program and all court-ordered appointments.

## **Section 6. Caseloads.**

(a) In order to ensure that attorneys have adequate time to provide the investigation and advocacy necessary to secure appropriate outcomes for dependent children and their families, an attorney appointed pursuant to this rule shall maintain a reasonable caseload, as set out below.

(b) An attorney who contracts with, or is employed by, the Office to perform attorney guardian *ad litem* services on a part-time basis shall not carry more than forty-five (45) juvenile court clients, and an attorney who contracts with, or is employed by, the Office on a full-time basis shall not carry more than eighty-five (85) juvenile court clients. Each GAL's caseload will be monitored by the Deputy Director and cases will be weighted when evaluating new caseloads. The following factors may be used by the Deputy Director when weighing caseloads: total workload (including non-GAL cases); case complexity; case difficulty; number of children; age of children; geographic placement of children; service needs of family; quality and aggressiveness of opposing counsel; and the judge's practice rules and expectations.

(i) If the Deputy Director has concern over a part-time GAL's total workload, the Deputy Director shall request and the GAL shall furnish the Deputy Director a total count of all cases and case type for the Deputy Director's review.

(c) All supervisory guardians *ad litem* shall maintain a GAL caseload, not to exceed forty-five (45) or eighty-five (85) individual GAL clients, depending upon whether the supervisory guardian *ad litem* is employed by or contracted with the Office on a part-time or full-time basis, in addition to her supervisory duties.

(d) The Deputy Director reserves, in her sole discretion, the right to limit guardian *ad litem* appointments of a GAL when that GAL's other obligations interfere with his or her ability to provide proper guardian *ad litem* services. This reservation of right applies to all caseloads, even those under the caseload limits.

#### **Section 7. Expert services.**

If a GAL determines that expert services are needed in a case, the GAL shall first determine whether the Department of Family Services or the county is responsible for or will pay for that service. If the GAL determines that the expert service needed is not one that the Department of Family Services or the county pays for, the GAL should then submit an expenditure authorization request to the Deputy Director for such expert services, explaining why the services are needed, who will be providing that service, and how much it will cost. The Deputy Director shall then determine which requests are reasonable and shall approve or deny on that basis. The Deputy Director also may not approve an expenditure authorization for expert services unless the funding is available for the service in the budget.

#### **Section 8. Out-of- state travel authorization.**

A GAL must obtain prior approval from the Deputy Director before incurring any out-of-state or overnight travel expense. Failure to request and receive prior approval will result in non-payment of travel expenses. The Deputy Director may, at her discretion, authorize certain GALs standing approval to travel to certain facilities or locations where the need may occur in an emergency situation or if other circumstances dictate the need.

#### **Section 9. Formal complaint process.**

The Program shall maintain a policy and procedure for individual GAL complaints. Said policy will be posted on the Program website and available to every individual that requests it. No formal complaint will be accepted anonymously. The GAL will have an opportunity to respond to the Program regarding any accepted complaints, and the Deputy Director will be responsible for investigating all formal complaints submitted and accepted.



## Chapter 3

### SUBMISSION OF AND PAYMENT FOR GUARDIAN *AD LITEM* SERVICES

#### Section 1. Compensation rate.

(a) Private attorneys who have contracted with the Office to provide guardian *ad litem* services will be compensated at a reasonable rate, on an hourly basis, a per case basis, set monthly pay or by a time limited contract, determined by the Office, in its sole discretion, for the time expended on a child's case. This rate includes the counties' twenty five percent (25%) or more match.

(i) A negotiated contract between the GAL attorney and the Office may result in different compensation rates depending on various factors including, but not limited to, location, economy, caseload, work quality and performance, NACC Child Welfare Law Specialist Certification, and experience. The rate of compensation set by the Office is entirely in its discretion.

(ii) This contract covers all expenses related to the case and the GAL's overhead in relation to the case, unless otherwise set out.

(iii) As required by Wyoming Statutes §§ 14-12-101 through 14-12-104 , no state money appropriated under this section shall be expended in any county unless the county agrees to match, at a minimum, twenty-five percent (25%) of the state money for the compensation of legal representation of children.

(iv) Any county may independently agree with a Program's GAL to pay a rate in excess of the rate set by the Office, provided however that the county enters into a separate contract with that GAL for the excess amount and is responsible and obligated to pay that excess amount. If that situation arises, both the GAL and the county agree and understand that the Program will not compensate/reimburse for that excess amount.

(v) If subparagraph (iv), above, does occur, the county will enter into a separate agreement with the Office setting out the agreement, the excess rate and the responsibilities and obligations of all parties.

(b) Attorneys employed by the Office to provide guardian *ad litem* services will be compensated by salary.

#### Section 2. Agreement with the counties for reimbursement.

(a) The Office shall enter into agreements with the individual counties of the state participating in the Program, providing that the Program will pay out of the appropriated funds one hundred percent (100%) of the compensation rates chosen by the Office, and that those participating counties will then reimburse the Program an amount equal to at least twenty-five

percent (25%) of GAL funds paid to those attorneys and provide for office space or an office space stipend as required by Wyoming Statute § 14-12-103(d).

(b) The Deputy Director shall invoice each participating county on a quarterly, semiannual or annual basis, in accordance with agreements reached with each county, of the total amount it must reimburse the Program, based upon the matching twenty-five percent (25%) or more of appropriated funds expended by the Program for that time period in that county.

### **Section 3. Submission of bills for payment.**

(a) GALs shall submit bills for GAL services performed in any given month on an invoice to the Deputy Director within a reasonable time period determined by the Program, and set out by contract or policy, after the end of the preceding month. Billing not in conformance with the requirements imposed by these Rules, the Program, or the contract between the GAL and the Office, will not be paid by the Program. This section does not apply to the University of Wyoming College of Law's Clinics.

(b) GALs will not be paid for GAL services provided for cases accepted and billed which exceed the maximum forty-five (45) clients for part-time GALs eighty-five (85) clients for full-time GALs, unless pre-approved by the Deputy Director. The Deputy Director shall evaluate the cases in terms of the date of the GAL's acceptance of appointment or assignment. Any case taken after the date the GAL reaches the maximum caseload without pre-approval will be considered an un-billable case and payment will not be tendered for GAL services provided for such a case.

(c) The Deputy Director and Program staff shall review the bills to assure compliance with these Rules, the Program, the court order, and the contract between the GAL and the Office.

(d) GALs agree, pursuant to the contract and these Rules, to comply with all requirements imposed by the Office, the Program, the Deputy Director, and Program staff in the submission of billing.

(e) If a child represented the previous month is, or was, residing with someone other than his parents, or either parent, the GAL shall provide to the Deputy Director, along with his bill or invoice, a complete mailing and physical address for whomever the child is residing with, so long as the GAL has knowledge of or can obtain the address.

### **Section 4. Review of submitted GAL bills.**

(a) The Deputy Director and Program staff shall review and audit all bills/invoices submitted by attorney GALs; and the Deputy Director may, in her sole discretion based upon the duty to provide oversight and accountability to the Program, reduce a bill/invoice and remit payment to that GAL for the reduced amount.

(b) The GAL shall submit documentation to the Deputy Director that explains or verifies a charged amount within ten (10) calendar days when requested by the Deputy Director.

Similarly, if a charge is denied by the Deputy Director and the GAL wants to dispute said charge, they shall submit the information in writing within ten (10) calendar days from the date of payment slip receipt.

(c) The failure of a GAL to submit documentation with the ten (10) calendar days will result in non-payment for the charged amount.

**Section 5. Review of Legal Services cases.**

If the Office enters into a memorandum of understanding with the University of Wyoming College of Law's Clinics to provide GAL services on a non-fee basis, the Clinics shall provide the Deputy Director with a monthly case update and any other information necessary regarding any cases for which it is providing GAL services.

THE STATE



OF WYOMING

## Office of the State Public Defender

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## Rules and Regulations for the *Guardians Ad Litem* Program

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This document is available in alternative format upon request.

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**Guardians *Ad Litem* Program  
Rules and Regulations**

**Chapter 1**

**GENERAL PROVISIONS**

**Section 1. Authority.**

These rules are promulgated by the Office of the Wyoming State Public Defender (“Office”) pursuant to ~~2008 Wyoming Session Laws Chapter 48, § 316, enacted during the 2008 Legislative Budget Session, Wyoming Statutes §§ 14-12-101 through 14-12-104,~~ and the Wyoming Administrative Procedures Act at W.S. 16-3-101, *et seq.*

**Section 2. Purpose and applicability.**

(a) The purpose of the Guardians *Ad Litem* Program (“Program”) is to contract with, supervise and manage attorneys providing legal representation as guardians *ad litem* in child protection cases under WYO. STAT. ANN. §§ 14-3-101 through 14-3-440, children in need of supervision cases under WYO. STAT. ANN. §§ 14-6-401 through 14-6-440, or termination of parental rights (“TPRs”) actions under WYO. STAT. ANN. §§ 14-2-308 through 14-2-319 brought as a result of a child protection or children in need of supervision action. The Program and these Rules apply only to these three types of juvenile actions and proceedings and any appeals that arise from these proceedings. The Program does not apply to a juvenile delinquency proceeding except that an attorney appointed to serve only as a guardian *ad litem* in a case in which a child has been charged with the commission of a delinquent act may, subject to these Rules, be eligible for compensation under the Program. In such a situation, these Rules would then apply to that guardian *ad litem* and his or her GAL representation of the alleged delinquent child.

(b) The Office may issue policies, manuals, bulletins, or other documentation interpreting the provisions of these rules and regulations. All policies, manuals, bulletins and other documentation shall be consistent with and reflect the policies contained in these rules and regulations. The provisions contained in such documentation shall be interpreted in favor of these rules and regulations.

~~(c) — The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules and regulations.~~

**Section 3. Citation.**

Citation to these rules shall be “Wyoming Guardians *Ad Litem* Program Rules and Regulations,” or more simply “GAL Rules.”

**Section 4. Policy.**

(a) The following excerpts from the National Association of Counsel for Children's (NACC) *NACC Recommendations for Representation of Children in Abuse and Neglect Cases (2001, available at [www.naccchildlaw.org](http://www.naccchildlaw.org))* are adopted by the Office as the policy guidelines of the Program:

(i) Each child is valued as a unique human being, regardless of race, ethnicity, religion, age, social class, physical or mental disability, gender, or sexual orientation.

(ii) Each child is vested with certain fundamental rights, including a right to physical and emotional health and safety. In order to achieve this, we must promote legal rights and remedies for children, including empowering children by ensuring that courts hear and consider their views in proceedings that affect their lives.

(iii) Every child subject to a child protection proceeding must be provided an independent, competent, and zealous attorney, trained in the law of child protection and the art of trial advocacy, with time and resources to handle the case.

(iv) Children's attorneys play a critical role in empowering children and ensuring that children's views are heard in legal proceedings. Outcomes in our adversarial process are directly tied to the quality of legal representation. Additionally, the presence of children's attorneys is critical to ensuring the timeliness of proceedings.

(v) Children's attorneys play a critical role in advocating for permanency and for the continuation of familial relationships, family preservation and family and community placements where appropriate. The attorney must advocate for timely resolution and permanent resolution (absent compelling reasons to the contrary) of the case. The attorney must advocate for food, shelter, clothing, and safety, including a safe temporary placement where necessary and for educational, medical, mental health, and dental needs. Where appropriate, the attorney should advocate for continuation of appropriate familial relationships, family preservation services and against out-of-home placements.

(b) As NACC has found, attorneys representing children should have a combination of knowledge, training, experience, and ability which allow them to effectively discharge their duties to their children clients. To that end the Office will develop reasonable and enforceable rules for the provision of quality GAL services to children in ~~child protection cases and TPRs~~[all types of cases handled by the GALs](#).

(c) The Program and all Program GALs shall embody these policies and strive to fulfill those ideals. The child's attorney should not be merely a fact-finder, but rather, should zealously advocate a position on behalf of the child. In furtherance of that advocacy, the child's attorney must be adequately prepared prior to hearings. The attorney's presence at and active participation in all hearings is absolutely critical.

## Section 5. **Program implementation.**



The Office shall fully implement the intent of the legislature in enacting ~~2008 Wyoming Session Laws Ch. 48, § 316, transfer of the Guardians Ad Litem Program~~ Wyoming Statutes §§ 14-12-101 through 14-12-104. As compensation from the Guardians *Ad Litem* Program may be available only as funds are provided by the Wyoming Legislature, the Program will be administered to fully utilize the authorized funds. The State Public Defender or her designee is the final authority in administering and operating the Guardians *Ad Litem* Program.

#### Section 6. **General provisions.**

(a) Terminology. Except as otherwise specified, the terminology used in this chapter is the standard terminology and has the standard meaning used in all legal settings and contexts.

~~(b) — Unless otherwise specified, the incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this chapter, including any applicable amendments, corrections, or revisions, but excluding any subsequent amendments or changes.~~

#### Section 7. **Definitions.**

The following definitions shall apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these rules, gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.

~~(a) “Administrator.” Refers to the Guardians Ad Litem Program Administrator.~~

~~(b)~~ (a) “Best interests.” Refers to a determination of the most appropriate course of action based on objective considerations of the child’s specific needs and preferences. The determination of the best interests of the child should be based on objective criteria as set forth in the law that are related to the purposes of the proceedings. The criteria should address the child’s specific needs and preferences, the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment, and the use of the least restrictive ~~detrimental~~ alternatives available. This determination must include the presumption that it is in the child’s best interest to be with his or her parent(s), as outlined by the Wyoming Supreme Court per ~~in~~ *In re Guardianship of MEO*, 2006 WY 87, 138 P.3d 1145 (Wyo. 2006).

~~(b)~~ (e) “Caseload.” Refers to the ~~amount or number of~~ number of open juvenile clients ~~cases~~ an attorney guardian *ad litem* has been appointed to represent and is currently maintaining and working in an open juvenile case. Caseload will be counted by clients, not cases, so if a case has three children, it will be counted three times.

~~(c)~~ (d) “Compensation.” Means money or other recompense given directly for the attorney guardian *ad litem* services provided and performed pursuant to the Program.

(ed) “Contract.” Refers to the contract between an individual attorney and the Office, whereby the individual attorney promises to provide guardian *ad litem* services to the Program, pursuant to these Rules, Office policy, pertinent court rules and statutes, and the contract itself, in exchange for a certain rate or amount of money to be paid by the Office through the Program.

(fe) “Deputy Director.” Refers to the Wyoming Guardians *Ad Litem* Program ~~Director~~Administrator, an attorney employed by the Office of the State Public Defender to oversee the Program as a Deputy Director of the Office, ~~or~~ the State Public Defender’s agent, designee, or successor for the GAL Program, in order to avoid conflicts between the two divisions of the Office of the State Public Defender. The Deputy Director is also charged with acting as the Chief Financial Officer of the GAL Program to avoid any conflict between the GAL Program and the Office.

(ef) “Full-time.” Refers to a one hundred percent (100%), full-time contract or employment. Means an employee or contractor is obligated to expend all of his work-time exclusively for the Office or the Program, and may not be employed with or contracted by another entity.

(hg) “Funding.” State funds appropriated and available to pay for guardian *ad litem* services. Funding does not include any other funds available to the Office that are not designated and appropriated for guardian *ad litem* services.

(ih) “GAL.” Refers to attorney guardian, or guardians; *ad litem*, who is, or are, certified by the ~~Office~~Program Deputy Director to furnish guardian *ad litem* services and who have contracted with or who are employed by the Office to provide such services.

(ji) “GAL Panel.” Refers to the list maintained by the Program Deputy Director and posted on the Program website of all attorneys certified and contracted with or employed by the ~~Program~~Office to provide GAL services.

(j) “GAL Services.” Refers to the legal representation the GAL provides to the child client and all that is required to effectively and zealously represent the client including, but not limited to, the use of experts; investigation of discovery and records; and use of interpreters to communicate with the client.

(k) “Office.” The Office of the Wyoming State Public Defender, its agent, designee, or successor.

(l) “Part-time.” Refers to less than a full-time contract or full-time employment. Any contract or employment whereby the contractor is not obligated to exclusively and entirely perform his services only for the Office or Program. Part-time does not necessarily mean “half-time.” The contract between the contractor and the Office defines and determines its duration and quantity.

(m) “Permanency Attorney.” A GAL attorney employed or contracted with the Program to represent clients in termination of parental rights (TPR) and appellate proceedings.

This attorney shall work closely with the GAL on the underlying juvenile matter while representing the client in the TPR or appellate proceeding.

(~~n~~) “Program.” The Wyoming Guardians *Ad Litem* Program, ~~established pursuant to 2005 Wyoming Session Laws Chapter 237 (repealed), and transferred to the Office of the Wyoming State Public Defender pursuant to 2008 Wyoming Session Laws Chapter 48, § 316 codified pursuant to Wyoming Statutes §§ 14-12-101 through 14-12-104.~~

(~~o~~) “Rules.” Unless the context clearly requires otherwise, “Rules” means the Office of the Wyoming State Public Defender Guardians *Ad Litem* Program Rules and Regulations, of which this chapter is a part.

(~~p~~) “Shelter care hearing.” Means a hearing regarding the temporary care of a child in physically nonrestrictive facilities pending court disposition or execution of a court order for placement or commitment.

(~~q~~) “Supervisor.” Means an attorney who is a Guardian *Ad Litem* Program Supervisor.

(~~r~~) “TPR.” Refers to a termination of parental rights proceeding.

#### Section 8. **Program administration.**

(a) The Office shall provide necessary administrative support and ~~supervisory oversight for the Program. The Office shall provide for oversight of the Program. The Program Deputy Director, and any s~~Supervisory attorney guardians *ad litem*, ~~or any other attorney guardian ad litem designated by the State Public Defender or her designee, or the Director or her designee, and the Permanency Attorney~~ are authorized and may attend all proceedings in an action, including closed proceedings, to assess performance, oversee, or assist an attorney guardians *ad litem*, unless a conflict of interest exists.

(b) The Office shall require any attorney who seeks to contract with or be employed by the Office for legal representation of children as a guardian *ad litem* to meet the standards for guardians *ad litem* established by the Office, the Program and the Program Deputy Director.

(c) The Office shall, in its discretion, set standard fee schedules for guardian *ad litem* services.

(d) The ~~Office~~ Program and the Program Deputy Director shall ensure ~~establish standards for~~ that the attorney guardians’ *ad litem* ~~that will ensure their~~ advice remains independent of private providers and the judicial system and, pursuant to Wyoming Statutes, that their recommendations consider cost impacts and savings to the state of Wyoming.

(e) ~~The Office will cooperate with the state’s juvenile courts in developing a case appointment system in each county for all applicable cases requiring the appointment of an attorney guardian ad litem. In such cases, the Office will develop a case contact system,~~

Utilizing ~~contact attorneys or~~ Program staff and supervising attorneys in each ~~county~~ Program District, the Program will ~~to~~ find a Program guardian *ad litem* available to take a new case and appear at the shelter care/detention hearing, upon notice from the Judge or County/District Attorney.

(i) If the court appoints the Program as the representative guardian *ad litem*, the Program, and therefore the Program Deputy Director, is the “attorney of record” and the Program shall assign the appointment case to ~~an attorney with whom it has contracted to serve as~~ a guardian *ad litem*.

(ii) ~~The Program shall maintain a list of qualified attorneys with whom it has contracted, the GAL Panel, and shall post the GAL Panel on the Program’s website. The Program shall also furnish that list to each juvenile court in the state and to the county/district attorney in each county annually periodically.~~ Any attorney appointed by the court, outside of the Program Deputy Director and ~~that is~~ not on the Program’s list Panel, will not be reimbursed or compensated by the Office.

~~(iii)~~(iv) Nothing herein precludes ~~a court or~~ the Program from appointing the University of Wyoming College of Law Clinics to a case. The clinic students serve as GALs under the direct supervision of a faculty supervisor and do not charge legal fees for their services.

(f) The Office and the Program shall establish agency joint protocols/policies to determine and resolve conflicts of interest. These protocols shall ensure that the Program will be, and will remain, separate and distinct from the Public Defender's Criminal Defense and Juvenile Delinquency division(s), whose functions are outlined in the Public Defender Act (WYO. STAT. ANN. §§ 7-6-101 *et. seq.*).

(g) The Office may negotiate and enter into contracts or memoranda of understanding with any individual or entity as necessary or convenient to facilitate the Office’s duties under this Program and to adequately and sufficiently maintain, operate, and administer the Program.

(h) Each GAL on the GAL Panel will be evaluated yearly by the Program Deputy Director, the District Court Judges before whom they regularly appear, and any other stakeholders the Program may identify. Said evaluations will be considered when renewing contracts each year.

(i) The State Legislature has appropriated ~~from the~~ general fund monies to the Office ~~a set amount of funds~~ each biennium for administration and operation of the Program. This appropriation shall only be expended for the purpose of administering the Program and providing GAL legal services to clients~~transferred under 2008 Wyoming Session Laws Ch. 48, § 316.~~ Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert at the end of each biennium as provided by law. A request for this appropriation shall be included in the Office’s standard biennial budget requests.

~~(j) The Office shall report on or before November 1 of each year to the joint judiciary interim committee and the joint appropriations interim committee on the results of the program transferred by this section including the number of cases and the amount of monies expended for compensation and the amounts of matching monies from participating counties.~~

**Section 9. Full-time guardians *ad litem*.**

A full-time attorney GAL shall not engage in private practice except to complete business pending at time of his/her employment or contract. A full-time GAL shall devote his/her full-time to performing GAL services as directed by the [Deputy Director](#) and is supervised by the Deputy Director.

**Section 10. Confidentiality.**

All information provided to the Program staff and GALs shall be confidential and shall not be released or admitted in a court proceeding unless otherwise ordered by a court. In no event shall communications between a child and the child's GAL be admitted, without the child's informed consent, even if that information has been provided to Program staff. In a case where a child is unable to give "informed consent" to such a release of privileged communication, the decision of whether to waive the attorney-client privilege is reserved to the GAL. Finally, under Rule 1.6(b) of the Wyoming Rules of Professional Conduct, a GAL may reveal confidential information relating to the representation, without informed consent, to the extent the GAL reasonably believes it is necessary to protect the best interests of the client.

**Section 11. Other legal protections or sanctions.**

The protections provided by these Rules do not exclude any protection or sanction that the law otherwise provides.

**Section 12. Interpretation of Rules.**

(a) The order in which the provisions of the chapters of these Rules appear is not to be construed to mean that any one provision is more or less important than any other provision.

(b) The text of the chapters of these Rules shall control the titles of its various provisions.

**Section 13. Superseding effect.**

The chapters of these Rules supersedes all prior rules or policy statements issued by the Office, which may be inconsistent with the chapters of these Rules.

**Section 14. Severability.**

If any portion of the chapters of these Rules is found to be invalid or unenforceable, the remainder shall continue in full force and effect.

## Chapter 2

### STANDARDS, CERTIFICATION AND TRAINING

#### Section 1. **Applicability.**

(a) These standards set forth the obligations of GALs ~~attorneys who contract with the Office, through its Program in Abuse/Neglect, CHINS, Delinquency, TPR, and Appellate proceedings, and who are appointed, pursuant to 2008 Wyoming Session Laws Chapter 48, § 316, to represent the best interests of children as attorney guardians *ad litem* in child protection cases under W.S. §§ 14-3-101 through 14-3-440, children in need of supervision cases under W.S. §§ 14-6-401 through 14-6-440, or termination of parental rights actions brought as a result of child protection or children in need of supervision actions under W.S. §§ 14-2-308 through 14-2-319 and for an attorney appointed to serve only as a guardian *ad litem* in a delinquency action pursuant to W.S. § 14-6-216.~~

(b) Nothing herein shall be applied in a way that limits or compromises the child's right to counsel ~~as outlined~~ in a child in need of supervision or delinquency action.

(c) All GALs ~~who attorneys who contract with the Office to~~ provide ~~GAL~~ services for the Program pursuant to these Rules shall be admitted to practice law in Wyoming ~~and~~, shall be in good standing with the Wyoming State Bar, and shall complete an initial training program to the Program Deputy Director's satisfaction.

#### Section 2. **Role of attorney guardian *ad litem*.**

(a) ~~These Rules adopt the National Association of Counsel for Children (NACC) Recommendations for Representation of Children in Abuse and Neglect Cases "The Attorney Guardian *Ad Litem* Hybrid Model" and is the model referred to whenever "attorney guardian *ad litem*" is set forth herein. This model provides an attorney to represent the child and instructs the attorney to represent the child's "best interests." Rather than taking direction from the client, as is the case in traditional attorney representation of adults, the attorney guardian *ad litem* is charged with forming the client's position by using his/her own judgment as to the child's "best interests." The attorney guardian *ad litem* is required to consider the child's wishes and preferences when determining the child's best interests, but he or she is not bound by them as in the traditional attorney-client relationship. If the attorney guardian *ad litem* determines that the child's expressed preference is not in the best interests of the child, both the child's wishes and the basis of the attorney guardian *ad litem*'s disagreement must be presented to the court.~~

(b) Client Preferences. ~~The Rules also consider the recommendations set forth in the American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (NACC Revised Version), especially when considering the client's preferences.~~ The ~~child's~~ attorney guardian *ad litem* should elicit the child's preferences in a developmentally appropriate manner, advise the child, and provide guidance, including

explaining to the child what recommendations the GAL is going to make and why she is making them.

(i) The guardian *ad litem* should ensure the child's ability to express his preferences by structuring all communications to account for the individual child's age, developmental level, level of education, cultural context, disability if any, and degree of language acquisition.

(c) As counselor and advisor to the child, the GAL should provide the child with an informed understanding of the child's legal rights and obligations and explain their practical implications. The GAL should explain all aspects of the case and provide comprehensive counsel and advice on the advantages and disadvantages of different case options to assist the child in identifying case goals and making informed decisions. During these discussions, the GAL should address the child's legal rights and interests as well as issues regarding the child's safety, health and welfare.

(d) If the child is pre-verbal or unable to communicate their preferences, the determination of the child's legal interests should be based on the laws that are related to the purposes of the proceedings; the child's specific needs and objective best interests determination; the goal of expeditious resolution of the case so the child can remain or return home or be placed in a safe, nurturing, and permanent environment; and the use of the least restrictive alternatives available and appropriate for the child.

### Section 3. **General responsibilities of attorney guardian *ad litem*.**

(a) Notwithstanding any additional conditions imposed by order of the court, an attorney guardian *ad litem* in a juvenile court case shall possess the knowledge and training necessary to perform the court appointment; and shall be subject to all of the rules and standards of the legal profession.

(b) An attorney guardian *ad litem* appointed pursuant to this rule shall specifically:

(i) Establish and maintain competence of the applicable legal and ethical standards, including relevant court rules, federal and state law, case law, agency rules and regulations and local practice;

(ii) Be familiar with recognized standards and best practice procedures in child welfare, protection and juvenile matters, ~~including those set forth in the American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (1996), the American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (NACC Revised Version 1999) and NACC Recommendations for Representation of Children in Abuse and Neglect Cases;~~

(iii) Due to the high co-occurrence of child abuse/neglect and domestic violence, be familiar with the dynamics of domestic violence, the rate of co-occurrence between child abuse and domestic violence, the barriers to leaving a violent relationship and how

domestic violence may affect children and their parents or caregivers, and how to determine if ~~it~~ domestic violence exists in a particular case; and how to competently account for it in case planning;

(iv) Conduct a full and independent case investigation in a timely manner, which shall include, at a minimum:

(A) Obtaining information about the child and the circumstances that led to the filing of the petition, which shall include obtaining copies of all pleadings and relevant notices;

(B) Meet with and observe the child's interaction with the caregivers, which includes meeting with and observing the child at home or in placement, even if a Court Appointed Special Advocate (hereinafter "CASA") or other child or family advocate is, or has been, involved in the case; and

(C) Personally meet with or observe the child in a timely manner, even if a CASA or other child or family advocate is, or has been, involved in the case, dependent on, ~~unless~~ the child's age and capabilities ~~prevent it~~.

(D) Failure of the GAL to fulfill the requirements of (A), (B) and (C), above, ~~may will~~ result in non-payment of the entire bill for the case, and may result in immediate termination of the contract or employment. (B) and (C) do not apply to any GAL Permanency Attorneys with the Program, as it may not always be in the child's best interests to meet with another attorney. Although, the Permanency Attorney can meet with the client if necessary in the TPR or Appellate Proceeding.

(v) Insofar as is practical, counsel the child concerning the subject matter of the litigation, the attorney's role, the child's rights, the possible outcomes of each proceeding, and the consequences of the child's participation or lack of participation;

(vi) If placement is necessary, ~~P~~prior to making a recommendation for out-of-home placement at a hearing, MDT or in the GAL Report, a GAL shall research and consider alternative community programs, treatments and family preservation services available to the family, only to the extent reasonably possible;

(vii) Independently identify and advocate for appropriate family and professional resources for the child and be familiar with the knowledge of experts and their possible input and role in the cases;

(viii) Participate in depositions, negotiations, discovery, pretrial conferences, multi-disciplinary team meetings and hearings, including review hearings;

(ix) Independently verify and advocate for timely resolution and permanent resolution (absent compelling reasons to the contrary) of the case;



(x) Make independent recommendations ~~and take into consideration cost impacts and savings of potential service options~~, with an emphasis on community services most likely to preserve families, continued appropriate familial relationships and avoidance of out-of-home placement, when appropriate;

(xi) In recognition of federal law encouraging the presence of children at hearings in which they are the subject and in recognizing the best interests of the child, children should attend all significant court hearings, unless, for their best interests, they should be excluded. A decision to exclude the child from the hearing should be made based on a particularized determination that the child does not want to attend, is too young to sit through the hearing, would be severely traumatized by such attendance, or for other good reason would be better served by nonattendance. The lawyer should consult the child, therapist, caretaker or any other knowledgeable person in determining the effect on the child of being present at the hearing. The lawyer should also ensure that the state/custodian meets its obligation to transport the child to and from the hearing and ensure the presence of someone to accompany the child any time the child is temporarily absent from the hearing;

(xii) After the hearings, review the court's orders to ensure the written orders conform to the court's oral orders, as well as comply with statutorily required findings and notices;

(xiii) Monitor and advocate for timely implementation of the case and/or permanency plan, the court's orders and communicate with the responsible agencies; ~~and~~

(xiv) Recognize that the obligation of the attorney guardian *ad litem* to the child is a continuing one and does not cease until the attorney guardian *ad litem* is formally relieved by court order or the court terminates its jurisdiction over the child. This continuing obligation includes any appeals or TPR proceedings that may result from the case in which the GAL has been appointed, although a separately trained appellate or TPR attorney may be assigned to represent the child on the TPR case or appeal. In the event of an appeal or TPR proceeding, a GAL shall ~~participate in the appeal as permitted by rule 7.13 of the Wyoming Rules of Appellate Procedure, and shall be reimbursed for this representation pursuant with the provisions of this rule. If the GAL is not able to represent the client in the appeal, the GAL must~~ immediately notify the Deputy Director of the Program so she may ~~find a suitable replacement~~ assign the case; ~~This continuing obligation also extends through termination of parental rights proceedings unless appointment of a new GAL is in the best interests of the child.~~

(xv) Establish a trusting, professional relationship and maintain an attorney-client relationship with the client that will enable the GAL to understand the child's interests and needs, as well as the child's position on issues or questions in the case. Communication should include the following elements and also comply with Program policy:

(A) Provide the child and the child's caretaker with contact information in writing and establish a message system that allows regular attorney-client communication;

(B) Speak respectfully regarding the child’s parents, family and cultural background; and

(C) Advise the child about all legal matters related to the case in a developmentally appropriate manner;

(xvi) The GAL should timely file pleadings when necessary, such as: petitions, reports, motions, responses or objections to advocate for the child’s preferences and the child’s best interests. Relief requested may include, but is not limited to:

(A) A mental or physical examination of a party or the child;

(B) An increase, decrease, or termination of contact or visitation;

(C) Moving for or preventing a change of placement;

(D) Contempt for non-compliance with a court order, in accordance with the Juvenile statutes;

(E) Change of the permanency plan;

(F) Request services for child or family;

(G) Dismissal of petitions or motions; and

(H) Appeals on behalf of the child to the Wyoming Supreme Court;  
and

(xvii) The GAL should participate in settlement negotiations to seek expeditious resolution of the case, keeping in mind the effect of continuances and delays on the child and in a manner consistent with the child’s preferences and best interests.

(c) A GAL’s failure to do any of the foregoing may result in ~~non-payment of bills and/or~~ termination of the contract or employment.

(d) *Multidisciplinary team responsibilities.* A GAL shall attend, in person unless extraordinary circumstances require attendance by telephone, all pertinent multidisciplinary team (“MDT”) meetings/hearings, in the child’s best interests. A GAL shall participate, in the child’s best interests, as a MDT member in reviewing the child’s personal and family history, school records, mental health records and Department of Family Services records and any other pertinent information, for the purpose of making case planning recommendations. If a GAL cannot attend a MDT team meeting in person or by telephone, he/she shall submit written reports and recommendations to the other team members and to the court prior to the meeting. ~~If a child has been placed outside the home, the GAL, in the best interests of the child and as a MDT member, shall meet quarterly with the other team members to review the child’s progress and~~

~~best interests.~~ Any failure to attend a pertinent MDT team meeting/hearing may result in non-payment of bills and/or termination of the contract or employment.

(i) The GAL shall motion the Court to add additional members to the MDT team when such addition benefits the child's preferences or best interests (i.e. the child, APS, a service provider, etc.).

(e) All GALs shall consult with their clients and evaluate any appealable issues as they arise. Before filing an appeal or a brief in response to an appeal with the Wyoming Supreme Court, the GAL shall submit the case to the Deputy Director for review. The appeal may be assigned to a specially trained appellate GAL when applicable, so prompt notification to the Deputy Director is necessary.

#### Section 4. **Qualifications and training.**

(a) Before the Office may contract with an attorney to provide attorney guardian *ad litem* services for the Program, the attorney must satisfy certain minimum training qualifications in addition to ~~the training~~ requirements set forth by these Rules above.

(b) The Program will contract with and employ attorneys only from the ranks of qualified attorneys. Contracts, employment, appointments and assignments will not be made without regard to prior training or practice. Competence requires relevant training and experience. Attorneys ~~contracted with, employed, appointed or~~ assigned as attorney guardians *ad litem* pursuant to these Rules and the Program shall be subject to all of the rules and standards of the legal profession.

(i) *Initial training.* A lawyer shall not be qualified for an initial contract, employment, appointment or assignment (for placement on the GAL Panel) pursuant to these Rules and the Program unless the attorney has received within the two (2) years prior to applying for certification with the Program, ten (10) or more live hours of child related training accredited by the Wyoming State Bar, or the attorney otherwise provides evidence acceptable to the ~~Administrator~~ Deputy Director that he or she has recent training, experience, or both, which is reasonably equivalent.

(A) The Program Deputy Director will decide on a case-by-case basis what constitutes "child-related training." The Deputy Director may also require a specific training course or materials to qualify for initial training.

(B) Any training offered by the NACC or the Program constitutes child-related training.

(C) If an attorney is removed from the GAL Panel after their initial training for a period of two (2) years or more, they must again complete the required initial ten (10) hours of training before being reinstated on the GAL Panel.

(D) This paragraph does not apply to subsections (c) or (d) of Section 4, below.

(E) The new contractor or employee will also have to complete initial training to the satisfaction of the Program Deputy Director upon their start with the Program.

~~(E)~~ This paragraph also does not apply to the law students supervised and practicing under faculty attorney supervisors at the University of Wyoming College of Law Clinics. It does apply to the faculty attorney supervisors.

(ii) *Continuing training.* In order to remain on the GAL Panel and be eligible for appointments, the attorney GAL shall obtain five (5) live hours of continuing legal education per legal education reporting year. These five (5) live hours shall be multidisciplinary, child-related training and relevant to an appointment in Juvenile Court proceedings.

(A) The Deputy Director has the additional authority and discretion to require all Program GALs to obtain training in addition to the minimum five (5) hours of continuing legal education when necessary.

(B) This paragraph also does not apply to the law students supervised and practicing under faculty attorney supervisors at the University of Wyoming College of Law Clinics. It does apply to the faculty attorney supervisors.

(iii) In accordance with the Child Abuse Prevention and Treatment Act Reauthorization of 2010 (P.L. 111-320), all GALs, before assignment to any case shall have training on their role as a GAL in Wyoming and specific training on “early childhood, child, and adolescent development.”

(iv) All training shall be approved by the Deputy Director based on the requirement that the GAL acquire sufficient knowledge in a wide range of subject areas including but not limited to:

(A) All relevant federal and state laws, regulations, policies, rules, and relevant court decisions;

(B) Infant, young child, and adolescent development needs and abilities, including the impact of trauma, mental health disorders, and disability;

(C) Developmentally appropriate interviewing and counseling skills;

(D) The role of the GAL in Wyoming and his or her ethical responsibilities to the client;

(E) Racial disproportionality within the child welfare system;

(F) Other biases that operate within the child welfare system and the juvenile justice system that could interfere with the ability of the GAL to successfully advocate for the child's preferences and best interests;

(G) Cultural competency;

(H) The types of experts who can consult with attorneys on various case issues;

(I) Family dynamics and dysfunction such as domestic violence, substance abuse, and mental health;

(J) The use of relative and kinship care;

(K) Child welfare, family preservation, and juvenile justice services available in the community;

(L) The role and authority of the Wyoming Department of Family Services and both public and private organizations within the child welfare and juvenile justice system; and

(M) An awareness and appropriate level of understanding of the ancillary legal systems and issues that impact children and youth in the dependency and juvenile justice system, such as educational issues, family law, offender matters, public benefits, immigration, child support, guardianship, adoption, substance abuse, developmental disabilities, and mental health disorders.

(c) *Successful completion of the University of Wyoming College of Law's Children and Law course (or equivalent thereof).* Any attorney who has, while in law school, successfully completed the Children and the Law course at the University of Wyoming College of Law, or an equivalent course there or at another ABA accredited law school, will be deemed to have fulfilled the ten (10) hour initial training set forth in paragraph (i). This shall apply retroactively. Proof of this successful completion will be required in the form of an official certified transcript from Law School.

(d) Persons having successfully completed their second year of law school, successfully completed at least one semester in the UW Law School Legal Services or DV LAP Legal Clinics, and attended at least ten (10) hours of Program training with the clinics and clinic faculty supervisors ~~may also attend any training and~~ may count ~~any that~~ training toward the Program's requirement found in ~~paragraph~~ Section 4(b)(ii), initial training. Proof of these requirements will be required in the form of a letter from the clinic faculty supervisor confirming these requirements were met. Nothing in these Rules ~~supereedes~~ supersedes any State Bar licensing requirements or State Bar rules, regulations, policies or procedures.

(e) The Program shall ensure annual Continuing Legal Education (CLE) guardian *ad litem* training is available for all interested attorneys.

Section 5. **Selection of guardians *ad litem*; list of qualified GALs.**

(a) *Application process.* Any attorney who desires to contract with the Office to provide attorney guardian *ad litem* services for the Program may submit at any time a completed application to the [Deputy Director](#). The application is available on the Program's website. Every completed application must be accompanied by a signed release of information authorization sufficient to enable the ~~Administrator~~ [Deputy Director](#) to independently verify the facts set forth in the application and freely check into the applicant's background and qualifications.

~~(i) The Office is not limited to contracting only with those attorneys who apply in the future. The Office may contract with those attorneys who already have an "expression of interest" form on file with the previous GAL Program, and who have previously provided guardian *ad litem* services for that program.~~

(ii) Any attorney who previously provided an application to the prior GAL Program, but who has failed to maintain the continuing training requirements, or is otherwise presently unqualified under these Rules, must re-apply.

(iii) The Office may contract with the University of Wyoming College of Law's Clinics to provide GAL services on a non-fee basis.

(b) *Screening process.* Before an application is ~~approved~~ [accepted](#) by the ~~Administrator~~ [Deputy Director](#) for [consideration for a contract, employment or](#) inclusion on a list of guardians *ad litem* maintained pursuant to these Rules ~~and any court rules~~:

(i) ~~The~~ applicant shall be admitted to practice law in Wyoming and shall be an attorney in good standing with the Wyoming State Bar; and

(ii) ~~The~~ applicant's continuing legal education credits shall be verified by the ~~Administrator~~ [Deputy Director](#) and the Wyoming State Bar.

~~(c) *List of approved guardians *ad litem** Yearly CLE Compliance Check. The Administrator shall maintain a list of qualified attorneys with whom it has contracted and from which courts may make appointments of attorney guardians *ad litem*. The Administrator shall keep the list current to reflect the addition of newly qualified attorneys and the deletion of attorneys who have not met the continuing training requirements set forth in Ch. 2, §4. An attorney must submit an updated affidavit (contained within the application) to the Administrator [Deputy Director](#) every year to ensure that she or he is maintaining her or his qualifications for such appointments. ~~The Administrator shall post the list (certified GAL Panel) on the Program's website.~~ Failure to submit this affidavit or complete the requisite number of approved CLE hours will result in a termination of the GAL's contract or employment.~~

(d) *Factors to be considered in selection.* All pertinent factors shall be considered by the Office in the identification and selection of the attorney guardian *ad litem* ~~to be contracted with or employed~~. To be ~~contracted with or employed~~, a guardian *ad litem*, [the attorney](#) must

meet the minimum qualifications set forth in Ch. 2, §4 ~~and any pertinent court rules~~, must have no conflict of interest regarding the case, ~~and must be listed on the list of approved guardians ad litem maintained by the Administrator~~ certified by the Deputy Director, and be a Panel Attorney pursuant to these Rules.

(e) *Appointment order; specification of duties.* An attorney guardian *ad litem* shall not be appointed or serve except upon written order of the court. Once the court has appointed a Program GAL to a case, the Program is deemed to have been appointed. It is recommended that the court's order will set forth: the role of the guardian *ad litem*; the specific duties to be performed by the guardian *ad litem* in the case; deadlines for the completion of the duties set forth; and the duration of the appointment. Notwithstanding a court's order or any pertinent court rule or state statute, the Deputy Director shall oversee the appointment. Any attorney appointed by the court that is not ~~on the Program's list described in paragraph (e)~~ contracted or employed by the Program will not be reimbursed or compensated by the Program.

(f) *Support, advice, and supervision.* The ~~Deputy Director~~ Administrator shall maintain a list of resources available in order to promote support, advice, and training to attorney guardians *ad litem* serving in the state. The Deputy Director, as well as any Supervisor at the direction of the Deputy Director, shall oversee the Program and all court-ordered appointments.

#### Section 6. **Caseloads.**

(a) In order to ensure that attorneys have adequate time to provide the investigation and advocacy necessary to secure appropriate outcomes for dependent children and their families, an attorney appointed pursuant to this rule shall maintain a reasonable caseload, as set out below.

(b) An attorney who contracts with, or is employed by, the Office to perform attorney guardian *ad litem* services on a part-time basis shall not carry more than forty-five (405) juvenile court ~~cases~~ clients, ~~including juvenile delinquencies~~, and an attorney who contracts with, or is employed by, the Office on a full-time basis shall not carry more than eighty-five (805) juvenile court ~~clients~~ cases, ~~including juvenile delinquencies~~. ~~The Program will strive to keep caseloads below the maximum.~~ Each GAL's caseload will be monitored by the Deputy Director and ~~their~~ cases will be weighted when ~~assigning new cases~~ evaluating new caseloads. The following factors may be used by the Deputy Director when weighing caseloads: total workload (including non-GAL cases); case complexity; case difficulty; number of children; age of children; geographic placement of children; service needs of family; quality and aggressiveness of opposing counsel; and the judge's practice rules and expectations.

(i) If the Deputy Director has concern over a part-time GAL's total workload, the Deputy Director shall request and the GAL shall furnish the Deputy Director a total count of all cases and case type for the Deputy Director's review.

(c) All supervisory guardians *ad litem* shall maintain a GAL caseload, not to exceed forty-five (45) or eighty-five (805) individual GAL ~~cases~~ clients, depending upon whether the

supervisory guardian *ad litem* is employed by or contracted with the Office on a part-time or full-time basis, in addition to her supervisory duties.

(d) The ~~Office~~ Deputy Director reserves, in ~~her~~<sup>its</sup> sole discretion, the right to limit guardian *ad litem* appointments of a GAL when that GAL's other obligations interfere with his or her ability to provide proper guardian *ad litem* services. This reservation of right applies to all caseloads, even those under the caseload limits.

#### **Section 7. ~~Part-time state public defenders.~~**

~~A private attorney who is contracted with or employed by the Office under the provisions of the Public Defender Act, WYO. STAT. ANN. §§ 7-6-101 et seq., to provide public defender services may be contracted with or employed to provide legal representation as attorney guardians *ad litem* in child protection and children in need of supervision cases if the contract is separate from the attorney's service as a state public defender and does not result in a conflict of interest.~~

#### **Section ~~7~~8. Expert services.**

If a GAL determines that expert services are needed in a case, the GAL shall first determine whether the Department of Family Services or the county is responsible for or will pay for that service. If the GAL determines that the expert service needed is not one that the Department of Family Services or the county pays for, the GAL should then ~~provide~~submit an expenditure authorization request to the Deputy Director ~~with a written request~~ for such expert services, explaining why the services are needed, who will be providing that service, and how much it will cost. The Deputy Director shall then determine which requests are reasonable and shall approve or deny on that basis. The Deputy Director also may not approve an expenditure authorization for expert services unless the funding is available for the service in the budget.

#### **Section ~~8~~9. Out-of- state travel authorization.**

A GAL must ~~get~~obtain prior approval from the Deputy Director before incurring any out-of-state or overnight travel expense. Failure to request and receive prior approval will result in non-payment of travel expenses. The Deputy Director may, at her discretion, authorize certain GALs standing approval to travel to certain facilities or locations where the need may occur in an emergency situation or if other circumstances dictate the need.

#### **Section ~~9~~10. Formal complaint process.**

The Program shall ~~establish~~maintain a policy and procedure for ~~regarding~~ individual GAL complaints. Said policy will be posted on the Program website and available to every individual that requests it. No formal complaint will be accepted anonymously. The GAL will have an opportunity to respond to the Program regarding ~~the~~any accepted complaints, and the Deputy Director will be responsible for investigating all formal complaints submitted and accepted.



## Chapter 3

### SUBMISSION OF AND PAYMENT FOR GUARDIAN *AD LITEM* SERVICES

#### Section 1. Compensation rate.

(a) Private attorneys who have contracted with the Office to provide guardian *ad litem* services will be compensated at a reasonable rate, on an hourly basis, a per case basis, set monthly pay or by a time limited contract, determined by the Office, in its sole discretion, for the time expended on a child's case. This rate includes the counties' twenty five percent (25%) or more match.

(i) A negotiated contract between the GAL attorney and the Office may result in different compensation rates depending on various factors including, but not limited to, location, economy, caseload, work quality and performance, NACC Child Welfare Law Specialist Certification, and experience. The rate of compensation set by the Office is entirely in its discretion.

(ii) This ~~rate of compensation~~contract covers all expenses related to the case and the GAL's overhead in relation to the case, unless otherwise set out.

(iii) As required by Wyoming Statutes §§ 14-12-101 through 14-12-104 2008 ~~Wyoming Session Laws Chapter 48, § 316(b)~~, no state money appropriated under this section shall be expended in any county unless the county agrees to match, at a minimum, twenty-five percent (25%) of the state money for the compensation of legal representation of children ~~by attorneys in child protection or children in need of supervision cases. The Office and the individual county shall establish the compensation rate within the county for attorneys providing legal representation as guardians *ad litem* in child protection and children in need of supervision cases.~~

(iv) Any county may independently agree with a Program's GAL to pay a rate in excess of the rate set by the Office, provided however that the county enters into a separate contract with that GAL for the excess amount and is responsible and obligated to pay that excess amount. If that situation arises, both the GAL and the county agree and understand that the Program will not compensate/reimburse for that excess amount.

(v) If subparagraph (iv), above, does occur, the county will enter into a separate agreement with the Office setting out the agreement, the excess rate and the responsibilities and obligations of all parties.

(b) Attorneys employed by the Office to provide guardian *ad litem* services will be compensated by salary.

#### Section 2. Agreement with the counties for reimbursement.

(a) The Office shall enter into agreements with the individual counties of the state participating in the Program, providing that the Program will pay out of the appropriated funds one hundred percent (100%) of the compensation rates chosen by the Office, and that those participating counties will then reimburse the Program an amount equal to at least twenty-five percent (25%) of GAL funds paid to those attorneys and provide for office space or an office space stipend as required by Wyoming Statute § 14-12-103(d).

(b) The ~~Administrator~~ Deputy Director shall notify-invoice each participating county on a quarterly, semi-annual or annual basis, ~~as determined by the Office~~ in accordance with agreements reached with each county, of the total amount it must reimburse the Program, based upon the matching twenty-five percent (25%) or more of appropriated funds expended by the Program for that time period in that county. ~~The Administrator shall also invoice each participating county for the total amount to be reimbursed for that time period.~~

### Section 3. **Submission of bills for payment.**

(a) GALs shall submit bills for GAL services performed in any given month on an invoice to the ~~Administrator~~ Deputy Director within a reasonable time period determined by the ~~Office~~ Program, and set out by contract or policy, after the end of the preceding month. Billing not in conformance with the requirements imposed by these Rules, the Program, or the contract between the GAL and the Office, will not be paid by the Program. This section does not apply to the University of Wyoming College of Law's Clinics.

~~(b) — *Format of bills. All documentation submitted for billing shall:*~~

~~(i) — contain at the beginning of the billing for each individual case, in bold, the court docket numbers and child's name;~~

~~(ii) — include a separate bill for each case/client; and~~

~~(iii) — itemize the charges by date and service provided, explaining and showing all hours expended on each case during that month.~~

~~(b~~e) GALs will not be paid for GAL services provided for cases accepted and billed which exceed the maximum forty-~~five~~ (45) ~~clients~~ caseload for part-time GALs eighty-~~five~~ (85) ~~caseload-clients~~ for full-time GALs, unless pre-approved by the Deputy Director. The ~~Administrator~~ Deputy Director shall evaluate the cases in terms of the date of the GAL's acceptance of appointment or assignment. Any case taken after the date the GAL reaches the maximum caseload without pre-approval will be considered an un-billable case and payment will not be tendered for GAL services provided for such a case.

~~(c~~d) The Deputy Director and ~~Administrator~~ Program staff shall review the bills to assure compliance with these Rules, the Program, the court order, and the contract between the GAL and the Office.

(~~d~~e) GALs agree, pursuant to the contract and these Rules, to comply with all requirements imposed by the Office, the Program, the Deputy Director, and ~~the Administrator~~Program staff in the submission of billing.

(~~e~~f) If a child represented the previous month is, or was, residing with someone other than his parents, or either parent, the GAL shall provide to the ~~Administrator~~ Deputy Director, along with his bill or invoice, a complete mailing and physical address for whomever the child is residing with, so long as the GAL has knowledge of or can obtain the address.

#### Section 4. **Review of submitted GAL bills.**

(a) The ~~Director and Administrator~~ Deputy Director and Program staff shall review and audit all bills/invoices submitted by attorney GALs; ~~to the Administrator~~ and the Deputy Director may, in her sole discretion based upon the duty to provide oversight and accountability to the Program, reduce a bill/invoice and remit payment to that GAL for the reduced amount.

(~~a~~b) The GAL shall submit documentation to the Deputy Director ~~or Administrator~~ that explains or verifies a charged amount within ten (10) calendar days when requested by the ~~Director or Administrator~~ Deputy Director. Similarly, if a charge is denied by the Deputy Director and the GAL wants to dispute said charge, they shall submit the information in writing within ten (10) calendar days from the date of payment slip receipt.

(~~b~~c) The failure of a GAL to submit ~~requested~~ documentation with the ten (10) calendar days will result in non-payment for the charged amount.

#### Section 5. **Review of Legal Services cases.**

If the Office enters into a ~~contract~~ memorandum of understanding with the University of Wyoming College of Law's Clinics to provide GAL services on a non-fee basis, the Clinics shall provide the ~~Administrator~~ Deputy Director with a monthly case update and any other information necessary regarding any cases for which it is providing GAL services.

#### ~~Section 6. Submission of total amount of GAL bills to the court.~~

~~At the time permanency has been achieved and at the close of the court case, the GAL shall provide to the court the total amount of GAL fees incurred by him in the case.~~