

1 **Rule 4-906. Guardian ad litem program.**

2 Intent:

3 To establish the responsibilities of the Guardian ad Litem Oversight Committee
4 established in Rule 1-205.

5 To establish the policy and procedures for the management of the guardian ad litem
6 program.

7 To establish responsibility for management of the program.

8 To establish the policy and procedures for the selection of guardians ad litem.

9 To establish the policy and procedures for payment for guardian ad litem services.

10 To establish the policy and procedures for complaints regarding guardians ad litem
11 and volunteers.

12 Applicability:

13 This rule shall apply to the management of the guardian ad litem program.

14 This rule does not affect the authority of the Utah State Bar to discipline a guardian
15 ad litem.

16 Statement of the Rule:

17 (1) Guardian ad Litem Oversight Committee. The Committee shall:

18 (1)(A) develop and monitor policies of the Office of the Guardian ad Litem to:

19 (1)(A)(i) ensure the independent and professional representation of a child-client and
20 the child's best interest; and

21 (1)(A)(ii) ensure compliance with federal and state statutes, rules and case law;

22 (1)(B) recommend rules of administration and procedure to the Judicial Council and
23 Supreme Court;

24 (1)(C) as requested by the Judicial Council, assist in selecting the Director of the
25 Office of the Guardian ad Litem;

26 (1)(D) develop a performance plan for the Director;

27 (1)(E) monitor the Office's caseload and recommend to the Judicial Council
28 adequate staffing of guardians ad litem and staff;

29 (1)(F) develop standards and procedures for hearing and deciding complaints and
30 appeals of complaints; and

31 (1)(G) hear and decide complaints and appeals of complaints as provided in this
32 rule. (2) Appointment of director. The Judicial Council shall appoint the Director of the
33 Office of Guardian Ad Litem. The Director shall have the qualifications provided ~~in Utah~~
34 ~~Code Section 78-3a-911~~ by the Utah Code.

35 (3) Responsibilities of the director. In addition to responsibilities under the Utah
36 Code ~~Section 78-3a-911~~, the Director shall have the following responsibilities.

37 (3)(A) Manage the Office of Guardian ad Litem to ensure that minors who have been
38 appointed a guardian ad litem by the court receive qualified guardian ad litem services.

39 (3)(B) Develop the budget appropriation request to the legislature for the guardian
40 ad litem program.

41 (3)(C) Coordinate the appointments of guardians ad litem among different levels of
42 courts.

43 (3)(D) Monitor the services of the guardians ad litem, staff and volunteers by
44 regularly consulting with users and observers of guardian ad litem services, including
45 judges, court executives and clerks, and by requiring the submission of appropriate
46 written reports from the guardians ad litem.

47 (3)(E) Determine whether the guardian ad litem caseload in Judicial Districts 1, 5, 6,
48 7, and 8 is best managed by full or part time employment or by contract.

49 (3)(F) Select guardians ad litem and staff for employment as provided in this rule.
50 Select volunteers. Coordinate appointment of conflict counsel.

51 (3)(G) Supervise, evaluate, and discipline guardians ad litem and staff employed by
52 the courts and volunteers. Supervise and evaluate the quality of service provided by
53 guardians ad litem under contract with the court.

54 (3)(H) Monitor and report to the Committee guardian ad litem, staff and volunteer
55 compliance with federal and state statutes, rules and case law.

56 (3)(I) Prepare and submit to the Committee in August an annual report regarding the
57 development, policy, and management of the guardian ad litem program and the
58 training and evaluation of guardians ad litem, staff and volunteers. The Committee may
59 amend the report prior to release to the Legislative Interim Human Services Committee
60 ~~pursuant to Utah Code Section 78-3a-911~~.

61 (4) Qualification and responsibilities of guardian ad litem. A guardian ad litem shall
62 be admitted to the practice of law in Utah and shall demonstrate experience and interest
63 in the applicable law and procedures. The guardian ad litem shall have the
64 responsibilities established by the Utah Code Section 78-3a-912.

65 (5) Selection of guardian ad litem for employment.

66 (5)(A) A guardian ad litem employed by the Administrative Office of the Courts is an
67 at-will employee subject to dismissal by the Director with or without cause.

68 (5)(B) A guardian ad litem employed by the Administrative Office of the Courts shall
69 be selected by ~~a committee consisting~~ the Director. Prior to the Director making a
70 selection, a panel shall interview applicants and make hiring recommendations to the
71 Director. The interview panel shall consist of the Director (or Director's designee) and
72 two or more of the following ~~officers~~ persons:

73 (5)(B)(i) ~~the Director managing attorney of the local guardian ad litem office;~~

74 (5)(B)(ii) the trial court executive of the district court ~~and or~~ juvenile court;

75 (5)(B)(iii) a member of the Committee; ~~and~~

76 (5)(B)(iv) a member of the Utah State Bar Association selected by the Director; and
77 or

78 (5)(B)(v) a member ~~of the public~~ selected by the Director.

79 (6) Conflicts of interest and disqualification of guardian ad litem.

80 (6)(A) In cases where a guardian ad litem has a conflict of interest, the guardian ad
81 litem shall declare the conflict and request that the court appoint a conflict guardian ad
82 litem in the matter. Any party who perceives a conflict of interest may file a motion with
83 the court setting forth the nature of the conflict and a request that the guardian ad litem
84 be disqualified from further service in that case. Upon a finding that a conflict of interest
85 exists, the court shall relieve the guardian ad litem from further duties in that case and
86 appoint a conflict guardian ad litem.

87 (6)(B) The Administrative Office of the Courts may contract with attorneys to provide
88 conflict guardian ad litem services.

89 (6)(C) If the conflict guardian ad litem is arranged on a case-by-case basis, the Court
90 shall use the order form approved by the Council. The Order shall include a list of the
91 duties of a guardian ad litem. The court shall distribute the Order as follows: original to

92 the case file and one copy each to: the appointed conflict guardian ad litem, the
93 guardian ad litem, all parties of record, the parents, guardians or custodians of the
94 child(ren), the court executive and the Director.

95 (6)(D) A conflict guardian ad litem's compensation shall not exceed \$50 per hour or
96 \$1000 per case in any twelve month period, whichever is less. Under extraordinary
97 circumstances, the Director may extend the payment limit upon request from the conflict
98 guardian ad litem. The request shall include justification showing that the case required
99 work of much greater complexity than, or time far in excess of, that required in most
100 guardian ad litem assignments. Incidental expenses incurred in the case shall be
101 included within the limit. If a case is appealed, the limit shall be extended by an
102 additional \$400.

103 (7) Staff and Volunteers.

104 (7)(A) The Director shall develop a strong volunteer component to the guardian ad
105 litem program and provide support for volunteer solicitation, screening and training.
106 Staff and volunteers shall have the responsibilities established by [the](#) Utah Code
107 [Section 78-3a-912](#).

108 (7)(B) Training for staff and volunteers shall be conducted under the supervision of
109 the attorney guardian ad litem with administrative support provided by the Director. Staff
110 and volunteers shall receive training in the areas of child abuse, child psychology,
111 juvenile and district court procedures and local child welfare agency procedures. Staff
112 and volunteers shall be trained in the guidelines established by the National Court
113 Appointed Special Advocate Association.

114 (8) Private guardians ad litem.

115 (8)(A) The Director shall maintain a list of guardians ad litem qualified for
116 appointment ~~under Utah Code Section 78-7-45~~. The Director shall provide the list to
117 district court judges upon request.

118 (8)(B) To be included on the list a guardian ad litem shall:

119 (8)(B)(i) apply for inclusion;

120 (8)(B)(ii) be a member in good standing with the Utah State Bar;

121 (8)(B)(iii) file permission and fingerprints for screening by the FBI and BCI;

122 (8)(B)(iv) be screened against the DCFS Child Abuse Data Base and the like data
123 base of any state in which the appointee has resided;

124 (8)(B)(v) complete initial and continuing training requirements established by the
125 Director;

126 (8)(B)(vi) file a monthly report on assigned cases in a format approved by the
127 Director;

128 (8)(B)(vii) be evaluated at the discretion of the Director for competent performance
129 and minimum qualifications.

130 (8)(C) Upon the appointment by the court of a guardian ad litem ~~under Utah Code~~
131 ~~Section 78-7-45~~, the court shall:

132 (8)(C)(i) use the following language in its order: "The Court appoints a private
133 attorney guardian ad litem to be assigned by the Office of Guardian ad Litem, to
134 represent the best interests of the minor child(ren) in this matter."; and

135 (8)(C)(ii) send the order to the Director c/o the Private Attorney Guardian ad Litem
136 Program.

137 (8)(D) Upon receipt of the court's order appointing a guardian ad litem, the Director
138 shall contact and assign the case to an eligible attorney.

139 (8)(E) Upon accepting the court's appointment, the assigned attorney shall file a
140 notice of appearance with the court within five business days of acceptance, and shall
141 thereafter represent the best interests of the minor(s) until released by the court.

142 (9) Complaints and appeals.

143 (9)(A)(i) Any person may file with the chair of the Committee a complaint regarding
144 the Director, ~~or the Office regarding an administrative policy or procedure, not including~~
145 ~~complaints regarding a particular guardian ad litem, private guardian ad litem, or~~
146 ~~volunteer~~. The Committee shall enter a recommendation to the Judicial Council, which
147 may include ~~appropriate~~ discipline of the Director.

148 ~~(9)(A)(ii) If a complaint regarding the Director or an administrative policy or~~
149 ~~procedure is received in the Director's office, the Director shall forward the complaint to~~
150 ~~the chair of the Committee within a reasonable time, but not more than 14 days after~~
151 ~~receipt.~~

152 (9)(B) Any person may file with the Director a complaint regarding a guardian ad
153 litem, private guardian ad litem, or volunteer. The decision of the Director regarding the
154 complaint is final and not subject to appeal.

155 (9)(C) If a guardian ad litem and a volunteer disagree on the major decisions
156 involved in representation of the client, either may notify the Director that the dispute
157 cannot be resolved. The decision of the Director regarding the dispute is final and not
158 subject to appeal.

159 (9)(D) The failure of the Director to satisfactorily resolve a complaint against a
160 guardian ad litem, private guardian ad litem, ~~staff person~~ or volunteer is not grounds for
161 a complaint against the Director.

162 ~~(9)(B) Any person may file with the Director a complaint regarding a guardian ad~~
163 ~~litem, private guardian ad litem, staff person or volunteer. The decision of the Director is~~
164 ~~final.~~

165 ~~(9)(C) If a guardian ad litem and a volunteer disagree on the major decisions~~
166 ~~involved in representation of the client, either may notify the Director that the dispute~~
167 ~~cannot be resolved. The decision of the Director is final.~~

168 ~~(9)(D) With or without a complaint, the~~ (9)(E) The Director may remove with or
169 without a complaint a private guardian ad litem from the list of private guardians ad litem
170 for failure to perform in a competent manner or for failure to meet minimum
171 qualifications. The private guardian ad litem may appeal in writing the Director's
172 decision to the chair of the Committee within 30 days after receiving notice of the
173 decision.

174 ~~(9)(E)(i)-(9)(F)(i)~~ A complaint ~~and an appeal~~ shall be in writing, stating the name and
175 contact information of the complainant, the name of the child or children involved, the
176 nature of the complaint and the facts upon which ~~it~~ the complaint is based.

177 ~~(9)(E)(ii)-(9)(F)(ii)~~ In resolving a complaint or appeal, the Director or the Committee
178 shall ~~review the complaint and~~ conduct such investigation as ~~they decide is the Director~~
179 or the Committee determines to be reasonable. ~~In resolving the appeal of a decision in~~
180 ~~a complaint, the Committee shall review the complaint and conduct such investigation~~
181 ~~as it decides is reasonable.~~ The Director or the Committee may meet separately or
182 together with the complainant and the person against whom the complaint is filed.

183 ~~(9)(E)(iii)–(9)(F)(iii)~~ The decision of the Director ~~or of the Committee~~ may include
184 ~~appropriate~~ discipline of the person against whom the complaint is filed. If the complaint
185 is against a private guardian ad litem, the decision may include removal of the private
186 guardian ad litem from the list of private guardians ad litem and the conditions for
187 reinstatement.

188 ~~(9)(F) If an appeal of the decision of the Director is permitted, the appeal must be~~
189 ~~filed with the chair of the Committee within 30 days after receiving notice of the~~
190 ~~decision.~~

191 (9)(G) This subsection does not apply to conflict guardians ad litem.

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