

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~~ select the Director of
25 the Office of ~~the~~ Guardian ad Litem in consultation with the State Court Administrator;

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.

33 (2) ~~Appointment Qualifications of the~~ director. ~~The Judicial Council shall appoint the~~
34 ~~Director of the Office of Guardian Ad Litem.~~ The Director shall have the qualifications
35 provided by the Utah Code.

36 (3) Responsibilities of the director. In addition to responsibilities under the Utah
37 Code, the Director shall have the following responsibilities.

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

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

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

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

48 (3)(E) Determine whether the guardian ad litem caseload in Judicial Districts 1, 5, 6,
49 7, and 8 is best managed by full or part time employment or by contract.

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

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

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

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

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.

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 the Director. Prior to the Director making a selection, a panel shall
70 interview applicants and make hiring recommendations to the Director. The interview
71 panel shall consist of the Director (or Director's designee) and two or more of the
72 following persons:

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

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

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

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

77 (5)(B)(v) a member selected by the Director.

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

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

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

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

92 guardian ad litem, all parties of record, the parents, guardians or custodians of the
93 child(ren), the court executive and the Director.

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

102 (7) Staff and Volunteers.

103 (7)(A) The Director shall develop a strong volunteer component to the guardian ad
104 litem program and provide support for volunteer solicitation, screening and training.
105 Staff and volunteers shall have the responsibilities established by the Utah Code.

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

112 (8) Private guardians ad litem.

113 (8)(A) The Director shall maintain a list of guardians ad litem qualified for
114 appointment. The Director shall provide the list to district court judges upon request.

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

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

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

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

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

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

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

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

127 (8)(C) Upon the appointment by the court of a guardian ad litem, the court shall:

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

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

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

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

138 (9) Complaints and appeals.

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

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

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

151 (9)(C) If a guardian ad litem and a volunteer disagree on the major decisions
152 involved in representation of the client, either may notify the Director that the dispute

153 cannot be resolved. The decision of the Director regarding the dispute is final and not
154 subject to appeal.

155 (9)(D) The failure of the Director to satisfactorily resolve a complaint against a
156 guardian ad litem, private guardian ad litem or volunteer is not grounds for a complaint
157 against the Director.

158 (9)(E) The Director may remove with or without a complaint a private guardian ad
159 litem from the list of private guardians ad litem for failure to perform in a competent
160 manner or for failure to meet minimum qualifications. The private guardian ad litem may
161 appeal in writing the Director's decision to the chair of the Committee within 30 days
162 after receiving notice of the decision.

163 (9)(F)(i) A complaint shall be in writing, stating the name and contact information of
164 the complainant, the name of the child or children involved, the nature of the complaint
165 and the facts upon which the complaint is based.

166 (9)(F)(ii) In resolving a complaint or appeal, the Director or the Committee shall
167 conduct such investigation as the Director or the Committee determines to be
168 reasonable. The Director or the Committee may meet separately or together with the
169 complainant and the person against whom the complaint is filed.

170 (9)(F)(iii) The decision of the Director may include discipline of the person against
171 whom the complaint is filed. If the complaint is against a private guardian ad litem, the
172 decision may include removal of the private guardian ad litem from the list of private
173 guardians ad litem and the conditions for reinstatement.

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

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