

These standards are not intended to substitute for, or impede the exercise of, an attorney's professional judgment or discretion. However, if an attorney elects not to perform a particular task specified in the standards, that decision should be the result of purposeful consideration in the context of the facts of a specific case rather than a random or blanket decision by the attorney.

PERFORMANCE STANDARDS GUARDIAN-AD-LITEM (GAL)

1. PRACTICE STANDARDS

- The GAL zealously represents the child’s best interests with respect to matters arising pursuant to the provisions of Section 32-1-6[32A 1-7] NMSA 1978;
- The GAL determines the best interests of the child through an objective evaluation that takes into account such factors as age, sense of time, level of maturity, culture and ethnicity, degree of attachment to family members including siblings, as well as continuity, consistency, and sense of belonging and identity;
- The GAL represents and protects the child’s cultural needs;
- In the event that the child’s best interests are different than the child’s expressed wishes, the GAL informs the court of these differences;
- The GAL represents the child’s best interests in accordance with the Code of Professional Responsibility, S.C.R.A. 16-101 et. seq. NMSA 1978, and all other applicable laws; and
- The GAL represents the child’s best interests in accordance with the confidentiality requirements of the New Mexico Children’s Code (Section 32A-4-33).

2. TRAINING STANDARDS

- The GAL participates in at least ten (10) hours of relevant annual training. (*See attachment.*)

3. CONTACT AND CONTINUITY OF COUNSEL STANDARDS

- The GAL meets with the child and the child’s caregiver in advance of custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, and other court proceedings to ascertain the need for witnesses or other evidence to be presented; the GAL also meets with the child and the child’s caregiver prior to mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children’s Code;

- The GAL counsels the child, in a developmentally appropriate manner, concerning the subject matter of the litigation, the child's rights, the court system, the proceedings, the GAL's role, and what to expect in the legal process;
- The GAL facilitates the child's participation in court hearings, especially if the child is 12 or older, unless it is determined to not be in the child's best interest;
- The GAL explains court orders and their consequences to the child;
- The GAL contacts the child prior to and after any change in the child's placement, whenever possible;
- The GAL contacts the child in the event of an emergency or significant event impacting the child;
- The GAL is accessible to the child through office hours, telephone/voice mail, fax, or email;
- The GAL attends treatment team meetings, administrative hearings, citizen review board meetings, school case conferences and staffings concerning the child whenever possible;
- As appropriate, the GAL pursues issues on behalf of the child, administratively or judicially, even if those issue do not specifically arise from the court appointment; for example: school/education issues, especially a child with disabilities; and mental health proceedings;
- In the event of a change of venue, the originating GAL remains on the case until a new GAL is appointed by the court in the new venue and the new GAL has communicated with the former GAL;
- The GAL discusses with the child, as developmentally appropriate, the nature of an appeal. If the appeal has merit, the GAL takes all necessary steps to perfect the appeal and seeks appropriate temporary orders or extraordinary writs to protect the interests of the child during the pendency of appeal;
- Whenever an appeal is taken, the GAL enters an appearance and GAL representation continues through any appellate proceedings unless representation is otherwise arranged;
- If there is no appeal, GAL representation continues through dismissal unless removed or relieved by the court;
- At cessation of representation, the GAL discusses the end of the legal representation and determines what contacts, if any, he/she and the child will continue to have.

4. STANDARDS FOR GATHERING AND REVIEWING INFORMATION

- The GAL is responsible for gathering and reviewing information, including:
 - Interviews with the child, foster parents and other caretakers, caseworkers, and service providers; and interviews as appropriate with the parents, school personnel, neighbors, relatives, clergy, law enforcement, and others;
 - Contact with lawyers for other parties and the CASA;

- Review of the child's, respondent's, and family's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case, as available;
- Review of the court files of the child, respondent, and family; and case-related records of the social service agency and other service providers; and
- Review of photographs, videos, or audiotapes and other evidence;
- The GAL obtains the necessary authority for the release of information;
- The GAL personally observes the child's interaction with parents, or with whomever the child may be reunited, when reunification is anticipated; and
- The GAL personally observes every residence at which the child is placed promptly after the child is placed at the residence to determine and facilitate the safety and well being of the child.

5. CASE PLANNING STANDARDS

- The GAL consults with the social worker, and health care, mental health care, and other professionals involved with the child's care;
- The GAL requests services (by court order if necessary) to meet the child's needs, to protect the child's interests, and to ensure a comprehensive service plan. These services may include but are not limited to:
 - Screening and diagnostic services
 - Family preservation or reunification services;
 - Home-based services;
 - Sibling and family visitation;
 - Child Support;
 - Domestic violence prevention, intervention and treatment;
 - Medical and mental health care;
 - Drug and alcohol treatment;
 - Parenting education;
 - Semi-independent and independent living services;
 - Long-term foster care;
 - Termination of parental rights action;
 - Adoption related services;
 - Education;
 - Recreational or social services;
 - Housing.
 - Special education and related services; and
 - Supplemental security income (SSI) to help support needed services.
- The GAL attends local Citizen Review Board hearings concerning the child and, if unable to attend the hearings, forwards to the board a letter stating the child's status

during the period since the last review and an assessment of CYFD's permanency and treatment plans;

- The GAL communicates with the Court-Appointed Special Advocate (CASA); and
- The GAL monitors implementation of the case plan.

6. COURT PERFORMANCE STANDARDS

- The GAL participates in custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, other court proceedings, and mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children's Code;
- The GAL reports to the court on the child's adjustment to placement, the Department's and the respondents' compliance with prior court orders and treatment plans, and the child/parent interaction during visitation;
- The GAL participates in mediation;
- The GAL stays informed of the child and family's involvement with family group decision making, family drug court, and other court sanctioned programs;
- The GAL files petitions, motions, and responses and make objections as necessary to represent the child's best interests. If appropriate, the GAL files briefs in support of evidentiary issues. During all hearings, the GAL preserves legal issues for appeal, as appropriate. Relief requested may include but is not limited to:
 - Obtaining necessary services;
 - A mental or physical examination of a party or the child;
 - A parenting, custody, or visitation evaluation;
 - An increase, decrease, or termination of contact or visitation;
 - Requesting, restraining, or enjoining a change of placement;
 - Contempt for non-compliance with a court order;
 - Termination of the parent-child relationship;
 - Child support;
 - A protective order concerning the child's privileged communication or tangible property; and
 - Dismissal of petitions or motions.
- The GAL presents and cross examines witnesses, offers exhibits, and provide independent evidence as necessary;
- The GAL prepares the child to testify, when appropriate. The GAL familiarizes the child with the courtroom, court procedures, and what to expect during direct and cross-examination. The GAL makes an effort to ensure (including making objections) that testifying will cause minimum harm to the child;
- The GAL requests orders that are clear, specific, and, where appropriate, include a time line for assessment, evaluation, services, placement, treatment, and evaluation of the child and family;

- The GAL reviews all written orders to ensure that they conform with the court's verbal orders and statutorily required findings and notices;
- The GAL monitors the implementation of the court's orders and reports any noncompliance;
- If appropriate, the GAL makes a closing argument and provides proposed findings of fact and conclusions of law. The GAL ensures that a written order is entered; and
- The GAL works diligently to avoid continuances and reduce delays in court proceedings.

RECOMMENDED TRAINING CONTENT

At a minimum, the requisite training programs, including mentoring, should address:

- Relevant federal and state laws and agency regulations;
- Relevant court decisions and court rules;
- Court process and key personnel in child and family related litigation;
- Applicable guidelines and standards for representation;
- Child development needs and abilities;
- Family dynamics and dysfunction including substance abuse and the use of kinship care;
- Accessing services such as family preservation, medical, educational, and mental health resources for child clients and their families, including placement, evaluation/diagnostic, and treatment services; the structure of the agencies providing services, as well as provision and constraints related to agency payment for services; and
- Policy and procedure re: the multidisciplinary input required, including information on local experts who can provide consultation and testimony on the reasonableness and appropriateness of effort made to safely maintain the child in his or her home.