

# A Guardian Ad Litem Protects Best Interest of the Child

**Q: How is a guardian ad litem different from a guardian who manages affairs for someone?**

**A:** A guardian is any person who is legally charged with the care of another person or of another's property, but the role of a guardian ad litem (often called a GAL) is more specialized than that of a "regular" guardian. A GAL is specifically responsible for protecting the interests of a minor child who is in some way involved in a lawsuit. In March 2009, Ohio Superintendence Rule 48 became effective. This rule governs guardian ad litem standards in Ohio. All GALs must have training specific to their role in representing a child's best interests. The Supreme Court of Ohio provides this training, which includes instruction in matters such as interviewing children, identifying domestic violence and dealing with substance abuse.

**Q: Who may serve as a GAL?**

**A:** In many jurisdictions, court-appointed special advocates (CASAs) may serve as GALs in dependency, neglect or abuse cases. Individual counties have programs to train CASA volunteers, who come from all walks of life. To learn about Ohio's CASA/GAL programs, visit <http://ohiocasa.org>. Attorneys also may serve as GALs on dependency, neglect and abuse cases, as well as in private custody disputes. A GAL cannot gain custody of a child.

**Q: Who appoints a GAL?**

**A:** The judge or magistrate will appoint a GAL. In domestic relations cases, where custody of a minor child or children is an issue, the attorneys may agree on a GAL or will ask the court to appoint one. When the interests of several children must be protected in a particular case, one GAL is usually appointed to represent all of the children's interests. If a conflict arises, then additional GALs may be appointed.

The court must make a statement indicating whether an attorney is being appointed as both a GAL and as attorney for the child or as a GAL only. Whenever feasible, the same GAL is reappointed to represent the best interest of a specific child in any subsequent court case.

**Q: What are the GAL's responsibilities?**

**A:** According to Supreme Court of Ohio standards and Ohio law, GALs must do the following:

1. Represent the best interest of the child.
2. Maintain independence, objectivity and fairness.
3. Act with respect and courtesy to the parties.
4. Appear and participate in all hearings and at "in camera" interviews between the judge or magistrate and the child.
5. Ask the court, in writing, to resolve conflicts by entering appropriate orders. Request psychological, mental health or substance abuse assessments regarding the parties.
6. Avoid any actual or apparent conflict of interest that may arise from any relationship or activity.

7. Make reasonable efforts to become informed about the facts of the case by:
- meeting with and interviewing the child and observing the child with each parent, foster parent, guardian or physical custodian and conducting at least one interview with the child where none of these individuals is present;
  - visiting the child at his or her residence in accordance with any court-established standards;
  - ascertaining the child's wishes;
  - meeting with and interviewing the parties, foster parents and other individuals who may have relevant knowledge of the case's issues;
  - reviewing pleadings and other relevant court documents; reviewing criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties.
  - interviewing school personnel, medical and mental health providers, child protective services workers and relevant court personnel, and obtaining copies of relevant records.
8. Provide the court with a written report of the activities listed above.

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*This "Law You Can Use" column was provided by the Ohio State Bar Association. It was prepared by Jennifer L. Myers, Esq., at Poling Law. Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek the advice of a licensed attorney.*

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