

**FRANKLIN COUNTY COURT OF COMMON PLEAS,
DIVISION OF DOMESTIC RELATIONS AND JUVENILE BRANCH**

NOTICE OF PROPOSED LOCAL RULE

The judges of the court are publishing this notice to solicit comments concerning proposed additions to the local rules of the court. The court will accept written comments concerning the rule until May 3, 2021. Written comments may be directed to Administrative Magistrate William Sieloff, 373 S. High St., Third Floor, Columbus, OH 43215 or by email to: william_sieloff@fccourts.org. The complete text of the proposed rule is below. A version with tracked changes can be found on the LOCAL RULES page of the Court's website (<https://drj.fccourts.org>) under "Proposed Amendments."

Domestic Rule 15/Juvenile Rule 27: GUARDIAN AD LITEM

(A) Applicability

This rule shall apply ~~in all domestic relations cases where~~when the court appoints a guardian ad litem to ~~protect and act in~~provide recommendations regarding the best interest of ~~the~~a child~~(ren)~~ in ~~matters regarding the~~ allocation of parental rights and responsibilities cases.

~~(B) Definitions~~

~~For purposes of this rule:~~

~~(1) "Guardian ad litem" means an individual appointed to assist a court in its determination of a child's best interest.~~

~~(2) "Child" means:~~

~~(a) A person under eighteen years of age, or~~

~~(b) A person who is older than eighteen years of age who is deemed a child until the person attains twenty one years of age under section 2151.011(B)(5) or section 2152.02(C) of the Revised Code.~~

~~(c) A child under R.C. 3109.04 or a disabled child under R.C.3119.86 who falls under the jurisdiction of a domestic relations court or of a juvenile court with a paternity docket.~~

(B) (C) Eligibility and Duties and Responsibilities of Guardians ad Litem:

1. Attorneys accepting appointments to serve as guardian ad litem shall be familiar with the following rules and be able to apply them to their practice: Sup. R. 48.01, et seq., the Court's

Local Rules, Ohio Rules of Civil Procedure, and Ohio Rules of Juvenile Procedure, as all may be updated or supplemented from time to time.

2. Attorneys accepting appointments to serve as guardian ad litem shall:

- a) Be knowledgeable of the laws of Ohio and relevant case law applicable to the cases for which they receive appointments;
- b) Act with respect and courtesy to the parties and all persons involved in the case at all time;
- c) Immediately identify yourself and your role in any correspondence or communication with any other person or party involved in the case, and inform them that documents or information obtained may be used in court proceedings;
- d) Initiate and maintain reasonable contact with their ward;
- e) Review all pleadings and other relevant court documents, and request discovery in a timely manner;
- f) Communicate prior to and outside of scheduled court hearings with counsel and unrepresented parties regarding the issues in the case and resolution of those issues in advance of hearing dates;
- g) Appear for hearings timely;
- h) Personally appear on behalf of their ward unless an emergency situation exists;
- i) Be prepared to discuss outstanding issues and be knowledgeable of the facts of the case at each hearing;
- j) File necessary motions and pleadings as needed and in a timely manner;
- k) Communicate with all counsel, parties, and court staff regarding scheduling conflicts well in advance of scheduled hearings;

3. Attorneys appointed to serve as guardian ad litem shall perform all duties and responsibilities and comply with all requirements as set forth in Sup. R. 48.01, et. seq.

4. Guardians ad litem are under an ongoing duty to notify the court of changes in their status, address, or telephone number. Additionally, they are required to notify the Court immediately of any disciplinary action that results in sanctions and promptly advise the court of any grounds for disqualification or unavailability to serve.

5. Repeated failure to appear for hearings timely, communicate regarding scheduling conflicts in advance, work to resolve matters outside of scheduled hearing dates, comply with the requirements of Sup. R. 48 including timely filing of reports, or to personally appear on behalf of the ward will result in removal from the guardian ad litem list as outlined in this Rule.

(C) Initial Training Requirements

In order to serve as a guardian ad litem, an applicant shall complete the pre-service training requirements as set forth in Sup. R. 48.04. An individual who is currently serving as a guardian ad litem on January 1,

2021, shall be deemed compliant with the pre-service education and not be required to complete the updated requirements that were effective as of this date.

(D) Qualifications

The Court, through its administrative ~~Domestic~~ magistrate, will maintain a list of ~~attorney~~attorneys~~persons~~ who have completed the required training and are eligible to serve as ~~guardian ad litem~~. ~~The Franklin County CASA Program may also serve as guardian ad litem.~~

In order to serve as a guardian ad litem, In order for an applicant attorney to be considered for placement on the list, they shall have, at a minimum, the following training:

1. Be an attorney licensed to practice in the State of Ohio who is in good standing.
2. Have been licensed to practice law at least 2 years, whether in Ohio or another state. If the applicant has not been licensed to practice law in Ohio or another state for 2 years or more, the applicant may provide a statement detailing significant and/or complex domestic or juvenile cases in which the applicant represented a party which would show advanced knowledge of juvenile and domestic law and procedure.

Provide, at the attorney's expense, a criminal and civil background check and [background disclosure statement](#)~~(1) Successful completion of a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education training in each succeeding calendar year to qualify for continued appointment.~~

~~(2) The pre-service training course must be the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's pre-service training program, or with prior approval of a majority of the judges of this court, be a course at least six hours in length that covers the topic areas in division (3), below.~~

~~(3) To meet the requirements of this rule, the pre-service course shall include training on all the following topics:~~

- ~~(a) Human needs and child development including, but not limited to, stages of child development;~~
- ~~(b) Communication and diversity including, but not limited to, communication skills with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of the child, sensitivity, building trust, multicultural awareness, and confidentiality;~~
- ~~(c) Preventing child abuse and neglect including, but not limited to, assessing risk and safety;~~
- ~~(d) Family and child issues including, but not limited to, family dynamics, substance abuse and its effects, basic psychopathology for adults and children, domestic violence and its effects;~~

~~(e) Legal framework including, but not limited to, records checks, accessing, assessing and appropriate protocol, a guardian ad litem's role in court, local resources and service practice, report content, mediation and other types of dispute resolution.~~

~~(4) Additionally, a guardian ad litem shall annually complete a three hour continuing education course provided by the Supreme Court of Ohio or by the Ohio CASA/GAL Association, or with prior approval of a majority of the judges of this court, be a training that complies with division (C)(5) of this rule.~~

~~(5) To meet the requirements of this rule, the three hour continuing education course shall:~~

~~(a) Be specifically designed for continuing education of guardians ad litem and not pre-service education; and~~

~~(b) Consist of advanced education related to topics identified in division (C)(3)(a) through (e) of this rule.~~

~~(6) Guardians ad litem may be removed from the court appointment list with the approval of a majority of the judges of the Domestic Relations Court. After losing eligibility for any reason, a guardian ad litem may not seek reinstatement of eligibility for six months and thereafter must submit a new application requesting reinstatement. If a guardian ad litem fails to complete a three hour continuing education course within any calendar year, that person shall not be eligible to serve as a guardian ad litem until this continuing education requirement is satisfied. If the person's gap in continuing education is three calendar years or less, the person shall qualify to serve after completing a three hour continuing education course offered under this rule. If the gap in continuing education is more than three calendar years that person must complete a six hour pre-service education course to qualify to serve.~~

~~(7) An individual who is currently serving as a guardian ad litem on March 1, 2009, shall have one year from March 1, 2009, to obtain the required six hour pre-service training in order to avoid removal from the court's list of approved guardians ad litem.~~

~~(8) Attendance at an Ohio Guardian ad Litem Training Program approved by the Supreme Court of Ohio or at an Ohio CASA/Guardian Association pre-service training program at any time prior to March 1, 2009, shall be deemed compliance with the pre-service training requirement.~~

3. ~~(D) relevant to the applicant's fitness to serve as a Guardian ad litem.~~

4. ~~Provide a copy of the applicant's resume, stating the applicant's training, experience and expertise which will allow the applicant to successfully perform the duties and responsibilities of a guardian ad litem.~~

5. ~~Provide information regarding any unique skills that the applicant has which may be of assistance to the Court, the child(ren) and/or the litigants (such as speaking a foreign language, background in social work or psychology, etc.).~~

6. Attest that at least 50% of the applicant's practice be in the areas of domestic relations and juvenile custody actions for 2-year period immediately preceding their application. If the applicant does not maintain 50% of their practice in these areas, the applicant may provide a statement detailing significant and/or complex domestic or juvenile experience which would show advanced knowledge of juvenile and domestic relations law and procedure.
7. A letter of recommendation from a member of the domestic relations bar indicating a level of proficiency and confidence in practice abilities that would translate to a practice as a guardian ad litem.

(E) Application and Acceptance

Upon completion of the required pre-service training, an attorney seeking to serve as a guardian ad litem shall submit an application to the administrative ~~domestic~~ magistrate. The application shall be on the form prescribed by ~~this rule, which is attached hereto the Court, and incorporated herein. The application shall be accompanied by a resume stating the applicant's training, experience and expertise demonstrating~~ include the applicant's ability to successfully perform the duties and responsibilities ~~requirements~~ of the guardian ad litem, a copy ~~§C and §D~~ of the applicant's criminal background check, and the applicant's ~~this rule.~~

~~An individual who is serving as a guardian ad litem on March 1, 2009, shall no later than February 28, 2010, submit an application to remain on the guardian ad litem list to the administrative domestic magistrate. The application shall be accompanied by a certificate of completion of the required six hour pre-service training, a resume stating the applicant's training, experience and expertise demonstrating the applicant's ability to successfully perform the duties and responsibilities of the guardian ad litem, a copy of the applicant's criminal background check, and the applicant's.~~

In ~~sending~~ submitting this application and ~~the~~ supporting documents ~~requesting placement on the list of eligible attorneys, the attorney is indicating a commitment, each individual is committing to the~~ acceptance of an appointment on a pro bono or reduced fee basis at least once a year.

~~Eligible attorneys shall notify the court of changes as well as possible participation in their status, address or telephone number. the mentoring program.~~

~~(E)All applications for placement on the guardian ad litem list shall be reviewed by the administrative magistrate and any committee of domestic and juvenile magistrates and/or staff attorneys as the administrative magistrate shall assign. Accepted applicants shall complete a mentoring program with the assistance of a court designated guardian ad litem. The mentoring requirement may be waived by the administrative magistrate based on prior guardian experience of the applicant, or based on significant practice experience in domestic and juvenile law for at least five (5) years.~~

(F) Mentoring

The administrative magistrate shall maintain a list of experienced, qualified guardians ad litem who have more than five years of experience serving as guardian ad litem, and who agree to provide mentoring to

new applicants. Mentors who successfully assist a new applicant will not be required to accept a pro bono appointment in the current year, or in the following year if they have already accepted a pro bono appointment in the current year.

Each guardian ad litem applicant may be assigned to a mentor by the administrative magistrate or his/her designee depending on their practice experience. The applicant shall be required to complete 9 hours of mentoring and six in-person meetings with their assigned mentor. The mentor shall coordinate with the applicant regarding meetings, court dates, and interviews that the applicant should attend.

Regardless of the flow of work on any case, the mentor and the applicant shall meet at least one time per month to review materials and discuss investigations. All hours incurred which directly correspond to mentoring responsibilities shall not be billed to any party to an action.

Any guardian ad litem appointment shall solely name the mentor as the guardian ad litem. The mentor shall have full responsibility for conducting and directing the appropriate investigations and attending all hearings.

At the conclusion of the mentoring responsibilities, the mentor shall complete an affidavit setting forth the applicant's participation on a form promulgated by the Court and shall provide the same to the administrative magistrate for review.

All mentors and applicants shall disclose their professional relationship created by this requirement to all counsel, parties, and judicial officers in any action where either may be appointed as a guardian ad litem and the other is counsel for a party. This requirement shall continue for a period of one year.

(G) Placement on Appointment List

Upon successful completion of the mentoring program, if required, the administrative magistrate shall consider the qualifications of the applicant along with the mentoring report for the applicant in determining whether the applicant shall be placed on the guardian ad litem list.

Once the applicant is placed on the guardian ad litem list, they shall complete an orientation offered by the Court for new guardians ad litem within one calendar year.

(H) Continuing Eligibility/Annual Certification

In order to ~~superintend the best interest of minor children/incompetents in any action over which this court has jurisdiction,~~ maintain their eligibility on the guardian ad litem appointment list, each attorney shall comply with the annual training requirements as outlined in Sup. R. 48.05, and shall report the following information on an annual basis:

1. That their professional licensure remains in good standing pursuant to division (C)(1) of this rule and attest that they are unaware of any circumstances that would disqualify them from serving on the guardian ad litem list.

2. Commencing in 2022 and every five (5) years thereafter, provide, at the attorney's expense, an updated criminal and civil background check. Persons on the list for fewer than 3 years shall be exempt until the following quinquennial. Updated criminal and civil background checks may be requested in writing at any time by the court.
3. Attest that at least 50% of the applicant's practice for the last 2 years be in the areas of domestic relations and juvenile custody. If the applicant does not maintain 50% of their practice in these areas, the applicant may provide a statement detailing significant and/or complex domestic or juvenile experience which would show advanced knowledge of juvenile and domestic relations law and procedure.

Guardians ad litem shall submit the annual registration form [insert embedded link] or complete an electronic version (if provided) detailing the required information set forth in this division. This information shall be provided to the administrative magistrate or his/her designee no later than January 31 of each calendar year.

Failure to provide this annual report will result in loss of eligibility to serve on any new or recurring appointments until this requirement is satisfied. The attorney shall be removed from the guardian appointment list for purposes of receiving new or recurring appointments. The court may allow the attorney to serve on current, active appointments for up to three (3) months. At the conclusion of the three (3) month period, the attorney will be removed from all current, active cases if they have still failed to comply.

If a guardian ad litem fails to complete the ongoing continuing education requirements within any calendar year, the individual shall not be eligible to serve as a guardian ad litem on any new or recurring appointments until this continuing education requirement is satisfied. The attorney shall be removed from the guardian appointment list for purposes of receiving new or recurring appointments. The court may allow the guardian ad litem to serve on current, active appointments for up to twelve (12) months. At the conclusion of the twelve (12) month period, the attorney will be removed from all current, active cases if they have still failed to comply.

Should an attorney be removed from the appointment list, they shall not be eligible for reinstatement for six (6) months from the date they come current on all outstanding requirements under this Rule. If the person's gap is two (2) calendar years or less, the person shall qualify to serve after completing all required hours of continuing education and providing all other necessary information required in this division. If the gap is more than two (2) calendar years, that person must complete the pre-service requirements as set forth in Sup. R. 48 and shall complete the application process.

(I) Appointment

The court may appoint a guardian ad litem upon its own motion or the motion of either party. When necessary, only the court may ~~also~~ appoint an attorney to represent the child, ~~or may appoint an attorney in the dual capacity of attorney and guardian ad litem for~~(ren). Private counsel shall not be hired to represent the child, ~~so long as those roles do not conflict. Said appointment shall be made by the required entry attached hereto and incorporated herein~~(ren) in allocation of parental rights proceedings.

Each judge or magistrate shall be responsible for appointing a guardian ad litem from the court approved list, as maintained and updated by the administrative magistrate, in accordance with Sup. R. 48.02 (H) and 48.07.

Each judge or magistrate may take into consideration the experience, skills, expertise, demeanor, current caseload and management thereof, and hourly rate of the guardian ad litem, as well as the nature and complexity of the case to be assigned, the parties and counsel to the case, and the children involved. In doing so, the assigned judge or magistrate may select a guardian ad litem to best serve the needs of the case.

Counsel for the parties may request a guardian ad litem they mutually agree upon from the court approved list based upon the factors set forth above, or any additional factors that warrant consideration, and the judge or magistrate shall consider the request in determining whether to appoint a guardian ad litem.

It shall be the responsibility of counsel in the case to copy the guardian ad litem with all pleadings, notices of hearings and depositions, entries, and any other necessary documents. Any additional expense incurred by the guardian ad litem as a result of counsel's failure to notify, including the costs of transcripts, shall be charged to the party (ies) responsible for such failure.

(F) Fees / Deposit to Secure Fees

~~When an attorney/It is the preference of the Court that the same guardian ad litem requires fee arrangements inconsistent with those set forth in the required entry, he/she shall so notify~~ be reappointed in any subsequent matters involving the same case or child(ren).

(J) Pro Bono or Reduced Fee Appointments

A guardian ad litem may be appointed on a pro bono or reduced fee basis by the court prior to accepting an upon sufficient showing that both parties are indigent or otherwise lack the appropriate funds to pay for the services of the guardian ad litem at the time of appointment. Sufficient showing may include, but is not limited to, those factors set forth in Sup. R. 48.02(H)(1), as well as either party filing an affidavit of indigency. The court shall have the discretion to waive initial deposits, all fees, or a portion of fees for the guardian ad litem, and shall indicate the portion of fees that are to be waived at the time of appointment. The court shall maintain jurisdiction to require fees or trial deposits to be paid after designated pro bono services have been exhausted, as well as to order payment or reimbursement of expenses incurred by the guardian ad litem. Should either party no longer qualify for indigency status during the pendency of the matter, fees may be ordered in the discretion of the court.

It shall be the responsibility of the guardian ad litem to report to the administrative magistrate or his/her designee all pro bono and/or reduced fee appointments. Failure to report pro bono appointments may result in additional pro bono appointments in a calendar year.

(K) Fees / Deposit to Secure Fees

The court shall require the parties to post a deposit to secure the fees of the guardian ad litem and shall apportion ~~additional fees incurred for the services of the guardian ad litem the fees~~ between the respective parties ~~in accordance with Sup. R. 48.02(H)(3)~~. The total deposit shall be at least \$800.00 unless otherwise ~~agreed upon indicated~~ by the guardian ad litem. ~~If any~~ All deposits and fees shall be paid directly to the guardian ad litem and processed through the guardian ad litem's IOLTA account.

The guardian ad litem shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and shall provide monthly billing statements to the parties and counsel for the parties. The guardian ad litem shall bill in increments of no greater than one-tenth (.1) hour. The parties shall pay all accrued guardian ad litem fees within 14 days of any request pursuant to the order allocating the guardian ad litem's fees.

A guardian ad litem may file a motion and include a proposed order or entry for additional fees at any time if either party has filed an affidavit of indigency, fails to pay accrued fees in a timely manner. The court may, in its discretion, not require that party to pay an initial deposit. grant any such motion sua sponte in accordance with Sup. R. 48(H)(4). Any motion for fees shall be accompanied by an affidavit setting forth the following: (1) all accrued and all outstanding fees; (2) a record of monthly billing statements provided to the parties; and (3) when each request for additional fees was made to the parties.

The court shall retain jurisdiction to reallocate the guardian ad litem's fees along with all costs of the proceedings, ~~upon motion and / or at the conclusion of the case.~~

~~No later than seven (7) days after final hearing in the matter on which the guardian ad litem has been appointed, the attorney/guardian ad litem shall submit an affidavit of fees to the court. If approved by the court, said fees shall be made a part of the final entry. Nothing herein shall delay the filing of said entries, and they shall be filed in accordance with the Rules of the Supreme Court as to Civil Procedure and Superintendence. In order to protect the fee for the services of the attorney/guardian ad litem, the court shall have the discretion to issue a lump sum judgment against the party or parties for the attorney fees due and owing at the time of the final adjudication. upon motion and / or at the conclusion of the case, and in accordance with Sup. R. 48.02(H). Each party shall be responsible for paying all fees as ordered until such time as a motion for reallocation has been decided. The filing of a motion for reallocation of fees shall not act as a waiver of that party's obligation to pay fees in accordance with the current order.~~

~~(G) Responsibilities and Duties of the Guardian ad Litem~~

~~In order to provide the court with relevant information and an informed recommendation regarding the child's best interest, upon appointment, a guardian ad litem shall perform, at a minimum, the responsibilities stated in this division, unless impracticable or inadvisable to do so.~~

~~(1) A guardian ad litem shall represent the best interest of the child for whom the guardian is appointed. Representation of best interest may be inconsistent with the wishes of the child whose interest the guardian ad litem represents.~~

The guardian ad litem shall be cognizant that the duty of an attorney to his/her client and the duty of a guardian ad litem to his/her ward are not always identical and, in fact, may conflict. The role of the guardian ad litem is to investigate the ward's situation and then to ask the court to do what the guardian ad litem feels is in the ward's best interest. The role of the attorney is to zealously represent his/her client within the bounds of the law. The first and highest duty of an attorney appointed in a dual capacity is to zealously represent his client within the bounds of the law and to champion his client's cause. When appointed in the dual capacity of attorney and guardian ad litem for the child or solely as guardian ad litem for the child, notify the court and counsel when a conflict arises.

(2) A guardian ad litem shall maintain independence, objectivity and fairness as well as the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom and shall have no ex parte communications with the court regarding the merits of the case.

(3) A guardian ad litem is an officer of the court and shall act with respect and courtesy to the parties at all times.

(4) A guardian ad litem shall appear and participate in any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed.

(5) A guardian ad litem who is an attorney may file pleadings, motions and other documents as appropriate under the applicable rules of procedure.

(6) When a court appoints an attorney to serve as both the guardian ad litem and attorney for a child, the attorney shall advocate for the child's best interest and the child's wishes in accord with the Rules of Professional Conduct. Attorneys who are to serve as both guardian ad litem and attorney should be aware of Rule 3.7 of the Rules of Professional Conduct and act accordingly.

(7) When a guardian ad litem determines that a conflict exists between the child's best interest and the child's wishes, the guardian ad litem shall, at the earliest practical time, request in writing that the court promptly resolve the conflict by entering appropriate orders.

(8) A guardian ad litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem shall avoid self-dealing or associations from which the guardian ad litem might benefit, directly or indirectly, except from compensation for services as a guardian ad litem.

(9) Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem shall immediately take action to resolve the conflict, shall advise the court and the parties of the action taken and may resign from the matter with leave of court, or seek court direction as necessary. Because a conflict of interest may arise at any time, a guardian ad litem has an ongoing duty to comply with this division.

~~(10) Unless excepted by statute, a guardian ad litem shall meet the qualifications and satisfy all training and continuing education requirements under this rule. A guardian ad litem shall meet the qualifications for guardians ad litem and shall promptly advise the court of any grounds for disqualification or unavailability to serve.~~

~~(11) A guardian ad litem shall be responsible for providing the administrative domestic magistrate with a statement indicating compliance with all initial and continuing educational and training requirements. The compliance statement shall include information detailing the date, location, contents and credit hours received for any relevant training course.~~

~~(12) A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. In order to provide the court with relevant information and an informed recommendation as to the child's best interest, a guardian ad litem shall, at a minimum, do the following, unless impracticable or inadvisable because of the age of the child or the specific circumstances of a particular case:~~

~~(a) Meet with and interview the child and observe the child with each parent, foster parent, guardian or physical custodian and conduct at least one interview with the child where none of these individuals is present;~~

~~(b) Visit the child at his or her residence in accordance with any standards established by the court;~~

~~(c) Ascertain the wishes of the child;~~

~~(d) Meet with and interview the parties, foster parents and other significant individuals who may have relevant knowledge regarding the issues of the case;~~

~~(e) Review pleadings and other relevant court documents in the case in which the guardian ad litem is appointed;~~

~~(f) Review criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties in the case;~~

~~(g) Interview school personnel, medical and mental health providers, child protective services workers and relevant court personnel and obtain copies of relevant records;~~

~~(h) Recommend that the court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court;~~

~~(i) Perform any other investigation necessary to make an informed recommendation regarding the best interest of the child;~~

~~(j) Communicate with the Family Assessment worker; and~~

~~(k) Attend all depositions concerning the best interest of the child(ren)/incompetent.~~

~~(13) A guardian ad litem shall immediately identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and shall inform these individuals about the guardian ad litem's role and that documents and information obtained may become part of court proceedings.~~

~~(14) As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of personal identifiers, as defined in Ohio Rule of Superintendence 44, or addresses where there are allegations of domestic violence or risk to a party's or child's safety. A guardian ad litem may recommend that the court restrict access to the report or a portion of the report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed in accordance with Ohio Rule of Superintendence 45. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure or access of the information that addresses the need to challenge the truth of the information received from the confidential source.~~

~~(15) A guardian ad litem shall perform responsibilities in a prompt and timely manner, and, if necessary, an attorney guardian ad litem may request timely court reviews and judicial intervention in writing with notice to parties or affected agencies.~~

~~(16) A guardian ad litem who is to be paid by the court or a party, shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment.~~

~~(H) Powers~~

~~The powers of the attorney/guardian ad litem shall be wide ranging, including but not limited to, the right to file motions and to review all confidential records involving the child(ren) by request, through deposition, and by subpoena.~~

~~(If not provided at the time of final hearing, the guardian ad litem shall file a motion for fees within seven (7) days after final hearing (or as otherwise directed by the court). The final request for fees shall be in accordance with Sup. R. 48.02(H).~~

~~Failure by either party to pay guardian ad litem fees or additional deposits as ordered by the court may result in the limiting of evidence at time of trial or other sanctions as the court may deem appropriate. A request for sanctions may be made upon motion of any party or upon the court's own motion. The choice of sanction shall be in the sole discretion of the court. The court may enforce the payment of fees as set forth in Sup. R. 48.02(I). Any existing order for fees, and all fees as ordered pursuant to the order/entry~~

appointing the guardian ad litem, shall remain due and payable to the guardian ad litem regardless of whether any action remains pending or whether either party withdraws or dismisses their motions.

(L) Reports and Court Appearances

The guardian ad litem may prepare and file written interim reports detailing observations and recommendations, but in all cases shall be present at all hearings pertaining to the children. ~~The attorney/guardian ad litem may subpoena and examine independent witnesses.~~

~~The guardian ad litem has a duty to notify the court and counsel if the child's wishes are in opposition to the guardian ad litem's recommendation.~~

A guardian ad litem shall prepare a written final report, ~~including recommendations to the court, within the times set forth in this division. The report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the guardian ad litem in reaching the guardian ad litem's recommendations and in accomplishing the duties required by statute, by court rule, and in the court's Order of Appointment. In addition, the following shall apply to guardian ad litem reports:~~

~~(1) In domestic relations proceedings involving the allocation of parental rights and responsibilities, the final report that complies with the requirements of Sup. R. 48.06 as to content, the time with which it shall be filed with the court and made available to the parties for inspection no less than seven days before the final hearing unless the due date is extended by the court. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy of the final report, and to whom it shall be provided to the court at the hearing. The court shall consider the recommendation of the guardian ad litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.~~

~~(4) Any guardian ad litem who makes a recommendation or conducts an investigation concerning the best interests of a child in a proceeding in which the guardian has been appointed shall be immune from civil or criminal liability as to that investigation or recommendation unless the guardian ad litem has acted in bad faith or with malicious purpose.~~

(M) Filing Fees and Court Costs

All filing fees and court costs are waived as to guardians ad litem.

(K/N) Termination of Appointment

The guardian ad litem appointment shall ~~represent the best interest of the minor child(ren) remain in effect~~ until discharged by order of the court. At the conclusion of the proceedings for which the appointment was made, the guardian ad litem shall submit a motion and entry for withdrawal as the guardian ad litem, and dismissing for dismissal of the child(ren) as party(ies) to the case, ~~to the assigned judge.~~

~~However, whenever feasible, the same guardian ad litem shall be appointed for a specific child in any subsequent case relating to the best interest of the child.~~

(LQ) Complaints Regarding Guardians ad Litem; Motions to Remove Guardians ad Litem

~~(1) Comments or complaints regarding the performance of a guardian ad litem appointed pursuant to this rule shall be in writing and shall be directed to the Administrative ~~domestic~~ Magistrate, Franklin County Common Pleas Court, Division of Domestic Relations and Juvenile Branch. Only signed comments and/or complaints will be added to the guardian ad litem's record and considered by the court. Anonymous comments and/or complaints will not be considered and will be destroyed.~~

A copy of comments and complaints submitted to the court shall be provided to the guardian ad litem who is the subject of the complaint or comment. The administrative ~~domestic~~ magistrate may forward any comments and complaints to the administrative judge of the court for consideration and appropriate action. The administrative ~~domestic~~ magistrate shall maintain a written record in the guardian ad litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject guardian ad litem of the disposition.

~~(2) Motions to remove a guardian ad litem shall be scheduled for hearing before the judge or magistrate assigned to adjudicate the allocation of parental rights and responsibilities.~~

(MP) Annual Certification Review

~~The administrative magistrate shall appoint a committee of not less than five domestic and juvenile magistrates and/or staff attorneys to review all individuals on the guardian ad litem list on an annual basis, as well as new applicants to the appointment list. The court shall ~~annually conduct a review of its list to~~ determine that all individuals are in compliance with the training and education requirements of this rule; that they have performed satisfactorily on all assigned cases during the preceding calendar year ~~and are;~~ the nature of any complaints contained in their file and their response thereto; and that they are otherwise qualified to serve. The committee may also schedule an interview with any current guardian ad litem or applicant to resolve any questions relating to compliance, performance, or complaints. Upon completion of any review, the administrative magistrate may recommend removal of any guardian ad litem to the judges of the court. The guardian may provide a written response in a timely manner to any recommendation for removal prior to the issue being submitted to the judges of the court.~~

~~All individuals on the guardian ad litem list shall certify annually they are unaware of any circumstances that would disqualify them from serving, and shall report the training they have attended to comply with division (C) of this rule.~~

~~The administrative magistrate may temporarily suspend any guardian ad litem from the list based on concerns that may arise related to their performance, including, but not limited to, persistent failure to appear or submit timely GAL reports, or failure to submit reports that comply with standards enumerated in Local Rules and Rule of Superintendence 48.01, et. seq., or the nature of any complaint that requires further investigation but serves to diminish the court's confidence in the performance of the guardian ad~~

litem. Thereafter, the administrative magistrate shall investigate the concerns and reinstate the guardian ad litem recommend removal of the guardian ad litem from the appointment list to the judges of the court.

(Q) Removal

Guardians ad litem may be removed from the court appointment list with the approval of a majority of the judges of the court, or upon failing to meet criteria for ongoing eligibility as set forth in §(H) above.

If a guardian ad litem is removed by the judges of the court, the attorney may not seek reinstatement of eligibility for one year and thereafter must submit a new application and comply with all requirements set forth in this rule, including pre-service requirements.

Proposed Effective May 10, 2021