

# Guardian ad Litem Board: Data Access Rules

Update to 2023 Special Review Report

February 2024

## Problems Identified

- **Unclear Appeals Process.** By law, public access to Guardian ad Litem (GAL) Board records is subject to *Minnesota Rules of Public Access to Records of the Judicial Branch* (Judicial Branch data access rules). These rules gave the public the ability to appeal to the State Court Administrator any GAL Board denials of data access. In 2021, a citizen asked Judicial Branch officials about the role of the State Court Administrator in appeals of GAL Board denials of data access; Judicial Branch officials told the individual that the State Court Administrator could not consider the appeal. When explaining their decision, they referenced the GAL Board's independence from the Judicial Branch and the scope of the Judicial Branch data access rules.
- **GAL Board Acted Contrary to State Law.** In response to the State Court Administrator's decision, the GAL Board adopted its own data access rules in February 2023. These rules permitted the GAL Program Administrator to hear appeals of Board denials of data access. However, the Board did not have the authority to adopt its own rules controlling public access to GAL Board data. Rather, the Board was required to propose amendments for Minnesota Supreme Court consideration.

## Changes Implemented

- **Judicial Branch Data Access Rules Amended.** Effective August 10, 2023, the Minnesota Supreme Court amended the Judicial Branch data access rules to exclude the records of the GAL Board. The amended rules also include the GAL Board on a list of boards and commissions whose records are governed by independent rules promulgated or approved by the Minnesota Supreme Court.
- **Minnesota Supreme Court Approved GAL Board Data Access Rules.** On August 10, 2023, the Minnesota Supreme Court approved the GAL Board's *Rules of Public Access to Records of the Guardian ad Litem Program*, the same rules that the Board had unlawfully adopted, without the Court's approval, in February 2023.

## Action Needed

- **Clarify GAL Statutes.** Minnesota statutes continue to state that GAL Board records are subject to Judicial Branch data access rules. Recent amendments to the rules explicitly exclude the Board from their scope. The Legislature should revise statutes to reflect the Supreme Court's approval of independent GAL Board data access rules.