



# Guardian ad Litem Program

The Guardian ad Litem Board has provided limited oversight of the Guardian ad Litem Program.

## Key Facts and Findings:

- Federal and state law require guardians ad litem to be appointed to certain types of court cases to advocate for a child's best interests.
- Guardians ad litem investigate a child's situation and make recommendations to the court.
- In 2010, the Legislature established the Guardian ad Litem Board to administer the statewide Guardian ad Litem Program in Minnesota.
- It is unclear how the guardian ad litem's role is different from some other court professionals whose roles guardians ad litem are prohibited from performing on the same case.
- The Guardian ad Litem Board has established few standards to ensure that guardians provide consistently high-quality services, and guardian ad litem work varied significantly across cases we reviewed.
- In recent years, the number of court cases that required a guardian ad litem increased significantly, while the guardian ad litem workforce increased only modestly.
- As of the end of Fiscal Year 2017, the Guardian ad Litem Program had not assigned guardians ad litem to some cases for which they were required.
- The Guardian ad Litem Board adopted minimum training requirements for guardians ad litem that meet or exceed best practice standards for volunteer guardians ad litem, but the Board has not ensured all guardians ad litem comply with these requirements.

- The Guardian ad Litem Board has not actively monitored several aspects of the Guardian ad Litem Program.
- Some aspects of the Guardian ad Litem Program's formal complaint resolution process are not transparent.

## Key Recommendations:

- The Legislature should clarify the role of guardians ad litem in certain types of court cases.
- The Guardian ad Litem Board should adopt clear standards for guardian ad litem work and establish formal caseload guidelines for guardians ad litem.
- The Guardian ad Litem Board should develop a plan for assigning guardians ad litem to all cases for which they are required.
- The Legislature should review the Board's plan in conjunction with guardian ad litem responsibilities listed in statute and determine the level of funding needed by the Program.
- The Guardian ad Litem Board should ensure all guardians ad litem comply with the Board's training policies.
- The Guardian ad Litem Board should provide greater financial oversight to the Program, regularly review its own and the program administrator's performance, establish measurable goals for the Program, and regularly monitor the Program's progress towards those goals.
- The Guardian ad Litem Board should clarify certain aspects of the formal complaint resolution process.

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The Guardian ad Litem Board has established few standards to guide guardian ad litem work.

## Report Summary

Each year, thousands of children in Minnesota are involved in court cases related to abuse, neglect, custody, and other matters. In some of these cases, the courts appoint a guardian ad litem to help ensure the child's needs are not overlooked during the court process. Guardians ad litem assess a child's situation and make recommendations to the court about a child's best interests.

Federal and state law outline requirements for guardian ad litem appointments. For example, the courts must appoint guardians to juvenile court cases that involve alleged child abuse, neglect, or abandonment.<sup>1</sup> The courts must also appoint guardians ad litem to family court cases involving custody or parenting time when the court has reason to believe the child is a victim of abuse or neglect.<sup>2</sup>

The Legislature created the Guardian ad Litem (GAL) Board in 2010 to administer the GAL Program. The Board must hire a program administrator to carry out the Program's operations.

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**State law directs guardians ad litem to perform some of the same activities as other court professionals whose roles guardians are prohibited from fulfilling.**

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State law provides relatively broad guidance about the activities guardians ad litem must perform. These activities include reviewing relevant documents and interviewing parents and caregivers. Further, guardians ad litem must make recommendations about the best interests of the child.<sup>3</sup> In custody, divorce, and legal separation cases to which they are appointed, guardians ad litem must also advise the court about custody and parenting time.<sup>4</sup>

These activities are similar to those of some other court professionals whose role guardians ad litem are prohibited from performing on cases to which they are

assigned. For example, court rules prohibit a person from acting as a guardian ad litem and custody evaluator on the same case. Yet, like a guardian ad litem, custody evaluators are to investigate, report, and make recommendations regarding custody and parenting time, including an evaluation of the child's best interests.

This lack of clarity can leave families unsure of the guardian ad litem's role and makes it difficult for managers to ensure guardians work within the scope of their role. We recommend the Legislature clarify the role of guardians ad litem, particularly in family court.

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**Without clear work standards, it was difficult to determine if the variation we encountered in guardian ad litem work was appropriate.**

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Statutory guidance is broad, and the GAL Board has created few standards to guide guardian ad litem work. For example, the Board has not established criteria guardians should consider when making recommendations or standards for how often guardians ad litem should meet with children.

The activities guardians performed varied significantly in GAL Program data and for a sample of cases we reviewed. For example, according to GAL Program data, guardians visited children a median of four times in the six months following their assignment, but the number of visits ranged from zero to more than eight.

Without clear standards in law or Board policy, it was difficult to determine whether guardians used their discretion appropriately while fulfilling their role. Further, without clear standards, it would also be difficult for the Board to ensure children receive the same level of service across the state. For that reason, we recommend the GAL Board establish guardian ad litem work standards.

Even when standards were clear, we found that guardians did not always comply with

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<sup>1</sup> "Guardians" refers to guardians ad litem.

<sup>2</sup> Per state law, the court is either required or permitted to appoint guardians ad litem to several other types of court cases.

<sup>3</sup> *Minnesota Statutes* 2017, 260C.163, subd. 5(b); and 518.165, subd. 2a.

<sup>4</sup> *Minnesota Statutes* 2017, 518.165, subd. 2.

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**The number of cases to which guardians ad litem must be appointed increased significantly between fiscal years 2015 and 2017.**

them. For example, we found that guardians ad litem did not submit the majority of the court reports included in our review within the required time period.

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**The Guardian ad Litem Program did not assign guardians ad litem to some cases for which they were required.**

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The number of juvenile court cases regarding child abuse, neglect, and abandonment increased by 25 percent between fiscal years 2015 and 2017—an increase of more than 1,900 cases. Because courts are required to appoint guardians ad litem to these cases, the demand for guardian services in juvenile court increased. As of the end of Fiscal Year 2017, the GAL Program had not assigned guardians ad litem to more than 500 cases for which a guardian appointment was required.

As appointments to juvenile court cases increased, appointments to family court cases decreased. This does not appear to correspond to a decrease in the court's demand for guardian services in family court. Half of the 145 judges who responded to our survey of district court judges and had recently appointed a guardian to a family court case commented on the difficulties of obtaining a guardian in family court. Several judges told us they no longer request guardians for family court cases—even when the appointment is required—because they know the GAL Program does not have enough guardians ad litem to fulfill the request.

The GAL Program reported that it increased its workforce by 22 full-time-equivalent staff from Fiscal Year 2015 to Fiscal Year 2017. Despite this, some GAL Program managers and coordinators told us that they do not have enough staff or resources to handle all of the cases. Several judges, attorneys, and social work professionals with whom we spoke expressed concern about high caseloads or insufficient staffing levels.

We believe it is important for the GAL Board and Legislature to work together to determine whether current legal requirements for the GAL Program reflect the needs of the state.

They should also identify the level of resources necessary for the Program to comply with requirements in law.

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**The Guardian ad Litem Board has not ensured all guardians ad litem comply with training requirements.**

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The GAL Board requires all guardians ad litem to complete 40 hours of initial training on juvenile court cases related to abuse and neglect, as well as 6 hours of training on domestic and family violence. Guardians ad litem that work on certain types of cases, such as family court cases, receive additional training. Guardians ad litem must also complete a specified number of hours of continuing education each year, including training on cultural competency.

Central office staff plan statewide training; district managers also provide on-the-job training locally. We surveyed guardians ad litem, and the vast majority of respondents agreed the GAL Program provided high-quality training.

At the same time, the Program does not centrally track guardian compliance with initial and ongoing training requirements. Therefore, the Board does not have information on the number of guardians ad litem that meet the training requirements. We recommend the Board ensure all guardians ad litem comply with the Board's training policies.

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**The Guardian ad Litem Board did not perform several key duties necessary to effectively monitor the Program's performance.**

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Board policies require the Board to establish goals to monitor the Program's impact on an annual basis. As of the end of Fiscal Year 2017, the Board had not revised those goals since they were established in 2011. Although the Board participated in a strategic planning session in 2016, it did not adopt a strategic plan and identified few measurable outcomes as a result of the planning process.

GAL Board policies also require the Board to regularly assess both its own performance and the performance of the program

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**The Guardian ad Litem Board has provided little strategic direction to the Program in recent years.**

administrator. We could confirm that the Board evaluated its own performance and the performance of the program administrator each on only one occasion between 2010 and the end of Fiscal Year 2017.

Furthermore, state law requires that the Board establish a procedure for distributing funding. Despite operating with a deficit in four of the five years between fiscal years 2013 and 2017, the Board did not update its procedure for distributing funds until October 2017. The program administrator told us the Program previously had been distributing funds based on a procedure developed in 2008.

We recommend the Board take several actions to strengthen the oversight and direction it provides the Program, including setting measurable goals for the Program's performance and regularly monitoring those goals.

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**The Guardian ad Litem Board established a complaint resolution process, but several aspects of the process are not transparent.**

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The GAL Board has a formal complaint resolution process that provides complainants with an administrative avenue to address their

concerns about guardian ad litem performance. The Board added a formal appeals option to the process in 2015.

However, some aspects of the process are unclear. For example, the required complaint form directs complainants to note any improper performance or conduct of the guardian ad litem; yet, the complaint resolution process does not clearly identify what criteria managers are expected to use to determine what constitutes "improper conduct or performance."

In addition, the process does not describe specific actions the district manager must take to investigate the complaint, other than request a response from the guardian ad litem. In a survey of managers, we asked them to describe step-by-step how they investigate complaints. All ten managers said they consulted documents filed with the court, but other activities varied. For example, three managers said they reviewed the guardians' case files.

The GAL Board should clarify these aspects of the complaint resolution process to help complainants understand how their complaint will be addressed and ensure managers thoroughly and consistently investigate all complaints.

### **Summary of Board Response**

*In a letter dated March 13, 2018, the Guardian ad Litem Program Administrator Kristen Trebil-Halbersma and Board Chair Crysta Parkin highlighted a sharp increase in child protection cases and agreed that the Guardian ad Litem Program has been unable to assign guardians to all cases as required by law. The letter stated that this "has resulted in a lack of advocacy for children affected by abuse and neglect in our state." The program administrator and Board chair noted that "the Guardian ad Litem Board is currently in the process of addressing many of [OLA's] recommendations." The letter listed several steps the Board has taken in recent months to provide greater financial oversight, track statewide compliance with training requirements, and analyze caseload levels, among other activities. However, the program administrator and Board chair also noted that resource limitations will impact the Program's ability to implement some recommendations.*

The full evaluation report, *Guardian ad Litem Program*, is available at 651-296-4708 or:  
[www.auditor.leg.state.mn.us/ped/2018/galprogram.htm](http://www.auditor.leg.state.mn.us/ped/2018/galprogram.htm)