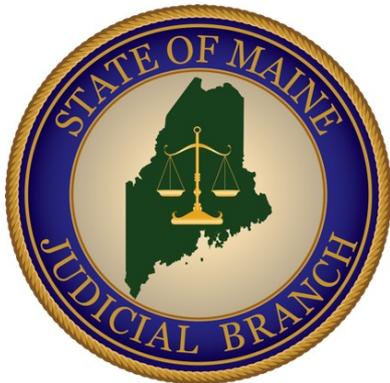


Role of the Guardian ad Litem



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What is a Guardian ad Litem?

“Guardian ad litem” or “GAL” is “a person appointed as the court’s agent to represent the best interests of one or more children . . .” 4 M.R.S. § 1551(2).

- The court appoints a GAL to every child protection case. The appointment is made as soon as possible after the proceeding is initiated. Parties do not have to pay any of the GAL fees. The Judicial Branch pays GALs for their services pursuant to an Administrative Order.

(See Revised Fee Schedule For Guardians ad Litem and Court-Appointed Workers’ Compensation Attorneys in All Courts, Me. Admin. Order JB-05-05 (A. 11-21) (effective November 22, 2021).

- A GAL serves as the **eyes** and **ears** of the court.
- If there are multiple children on a particular case, there will usually be only one GAL appointed to represent the best interests of those children.
- ““Best interests of the child’ means an outcome that serves or otherwise furthers the health, safety, well-being, education and growth of the child.” 4 M.R.S. § 1551(3). Specific best interest factors that a GAL must consider in a Title 22 appointment are outlined in Title 19-A § 1653(3).



Who is the GAL in a PC case?

- The court appoints either:
 - a trained attorney, or
 - a trained court appointed special advocate (CASA) who is supervised by an attorney within the Maine CASA Program.
- Training for attorney GALs and CASAs is administered by the Family Division within the Administrative Office of the Courts.
 - Attorneys are required to participate in at least 23 hours of training to be rostered in child protection cases.
 - CASAs are required to participate in at least 30 hours of training to be rostered in child protection cases.



The Appointment Order

- A GAL is appointed by order of the court. The appointment order must be on a court-approved form and specify the GAL's duties. 4 M.R.S. § 1556(2)(A).
 - The GAL can motion the court to add additional duties.
- The GAL does not have authority to perform duties that are not specified within the appointment order. 4 M.R.S. § 1556(2)(B).
 - The GAL is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the GAL. 22 M.R.S. § 4005(1)(G).



GAL Duties

The court-approved form includes the following language, lifted from statute:

The guardian ad litem must be given access to all reports and records relevant to the case and investigate to ascertain the facts. The investigation must include, when possible and appropriate, the following:

- (1) Review of relevant mental health records and materials;
- (2) Review of relevant medical records;
- (3) Review of relevant school records and other pertinent materials;
- (4) Interviews with the child with or without other persons present; and
- (5) Interviews with parents, foster parents, teachers, caseworkers and other persons who have been involved in caring for or treating the child.

22 M.R.S. § 4005(1)(B).



Additional GAL Duties

A GAL **shall**:

- ✓ File “reports, motions, responses or objections as necessary and appropriate to the stage of the case”;
- ✓ “appear at all child protection proceedings”;
- ✓ “protect the interests of the child who is a witness”; and
- ✓ “recommend appropriate services, by motion for court order if necessary.”

A GAL **may**:

- ✓ Present evidence;
- ✓ Call witnesses; and
- ✓ Testify at hearings.

See 4 M.R.S. § 1556(2)



Additional GAL Duties

- The GAL must have face-to-face contact with the child within 7 days of appointment, in the child's home or foster home. 22 M.R.S. § 4005(1)(B).
 - “The GAL must continue to visit with the child at least once every 3 months thereafter or on a schedule established by the court for reasons specific to the child and family.” 22 M.R.S. § 4005(1)(B).
 - The Maine CASA Program expands the fact-to-face visit requirement to once per month.
- The GAL must provide written recommendations at least every 6 months, or otherwise ordered by the court. *See* 22 M.R.S. § 4005(1)(B).
 - GALs are required to file compliance reports 7 days before any hearing or on another date specified by the judicial officer. A GAL must file a compliance report for the summary preliminary hearing, even though the GAL is not required to file a GAL report for that hearing. *See* M.R.G.A.L. 5(l)(2).



Child's Wishes & Representation

- “The GAL shall make the wishes of the child known to the court if the child has expressed the child's wishes, regardless of the recommendation of the guardian ad litem.” 22 M.R.S. § 4005(1)(E).
- Additionally, “[t]he court may provide an opportunity for the child to address the court personally if the child requests to do so or if the guardian ad litem believes it is in the child's best interest.” 22 M.R.S. § 4005(1)(B).
- The GAL or the child may request the court to appoint an attorney for the child. The District Court is responsible for the reasonable costs and expenses of the child’s attorney. 22 M.R.S. § 4005(1)(F).



GAL Review Board

- The GAL Review Board operates within the Maine Board of Overseers to regulate GALs as defined in the Maine Rules for Guardians as Litem.
 - Administers the GAL Rules;
 - Offers continuing education for GALs; and
 - Handles all complaints against GALs.
- The GAL Review Board is comprised of 12 members total, including four public members.
- GALs must earn six continuing professional education credits each year (including one ethics credit and two domestic abuse and violence credits) and report them to the GAL Review Board.



Questions?
