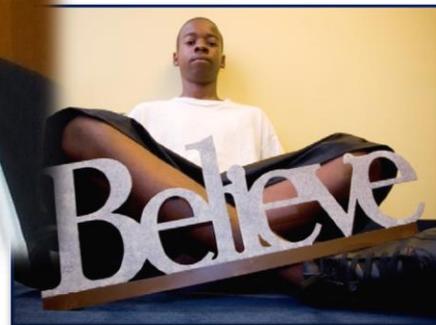


Florida Guardian ad Litem Program Standards



*Like the lighthouse, your beaming support has shone on everyone you met, lighting the path to achievement and success.
Thank you for showing us the way.*

Dedication

*In Honor of
John D. O'Sullivan
August 8, 1939 – January 5, 2013*

I dedicate these standards to John O'Sullivan who passed away earlier this year. His photo graces the front of this document. I went to the Fort Myers area because John had been a Guardian of the Year and reading his obituary strengthened my desire to meet his wife and family. Aside from his tireless efforts for children, John served on the Florida Bar's Grievance Committee for three years and on the Board of Directors, Collier County, of the United States Military Academy Liaison Officer for West Point.

John's obituary included this poignant line: "[h]e is survived by his loving wife of 43 years, Phyllis O'Sullivan; ... as well as 39 children whom he forever helped." These last words moved me, and I wanted to thank his wife because John's passion certainly was supported and guided by his life partner. At the "celebration of life," I met with Phyllis and the many people whose lives John impacted through the years. One such person was a confident young man who was about to graduate from West Point. This young man told me all that John had done for him. I also met adoptive parents and their children who were touched by John's work through the years. While there were many individual children for whom John advocated, his powerful passion also inspired many others.....I am one. John will be missed. Thank you, John O'Sullivan.



Florida Statewide Guardian ad Litem Office
Alan F. Abramowitz, Executive Director

Dear Colleagues:

The Gold Standard for GAL: Standards to inspire and empower volunteers and staff to say, *"I am for the Child."*

"I am for the Child" is the theme for these updated standards. I believe they reflect that we have listened to the children and young adults in foster care and that we heard their voices in developing these Standards.

A Guardian ad Litem is so much more to a child than just their court advocate. A GAL volunteer often becomes a role model, mentor, educational surrogate, friend, confidant, and most important, a consistent caring person on whom the child can rely. The standards reflect this high level of empowerment and lay the foundation for guardians and staff to make an even greater difference in the lives of children. The theme we consistently hear through the voices of children -- *"To the world you are one person, but to one person you are the world."* -- is supported by these Guardian ad Litem Standards.

As we approach 2015, our 35th anniversary, with the goal of more than 10,000 volunteers, I am looking forward to supporting our dedicated volunteers and staff who are there for the children and young adults not solely because it is their job, but because it's their passion in life.

This document is a living and evolving document with the sole purpose of allowing our volunteers and staff to advocate for a child's best interest. I welcome your comments and thoughts to improve the standards. My email is Alan.Abramowitz@gal.fl.gov and my cell number is 850.241.3232.

Sincerely,

Alan Abramowitz
Executive Director

Table of Contents

- Introduction 6
- Program Mission, Vision and Values 6
- Standard 1: The Role of the Guardian ad Litem 8
 - 1.A. Child Visitation..... 8
 - 1.B. Best Interest Advocacy..... 8
 - 1.C. Mentor..... 10
 - 1.D. Advocate..... 11
- Standard 2: Guardian ad Litem Certification and Oversight 12
 - 2.A. Guardian ad Litem Recruitment, Screening and Selection..... 12
 - 2.B. Guardian ad Litem Pre-Certification Training..... 12
 - 2.C. Guardian ad Litem Program In-Service Training..... 14
 - 2.D. Educational Advocacy Training and Certification..... 14
 - 2.E. Guardian ad Litem Program Team Model..... 14
 - 2.F. Guardian ad Litem Annual Recertification Reviews..... 15
 - 2.G. Guardian ad Litem Records..... 16
 - 2.H. Non-Case Volunteers..... 16
- Standard 3: Code of Conduct 17
- Standard 4: Acceptance and Assignment of Cases 17
 - 4.A. Case Acceptance..... 17
 - 4.B. Case Assignment..... 17

4.C. Guardian ad Litem Caseloads.....	19
4.D. Representation of Related Children.....	20
4.E. Discharge of the Guardian ad Litem Program.....	20
4.F. Out of Circuit Cases.....	21
Standard 5: Attorney ad Litem Appointment	22
Standard 6: Case Records	22
6.A. Case File Maintenance.....	22
6.B. Confidentiality.....	23
Standard 7: Transportation of Children.....	23
Standard 8: GAL Good Samaritan Policy.....	24
Standard 9: Participation in Childhood Activities.....	25
Standard 10: Promoting and Advancing Inclusiveness and Diversity.....	26
Standard 11: Public Relations	27
11.A. Media Relations.....	27
11.B. Public Awareness.....	27
Standard 12: Innovative and Progressive Leadership	27

“In a state that generally ranks low on lists of good places to be a child, the statewide guardian ad litem program is an elegant combination of effectiveness and accountability, of individuals joining hands with government to give a voice to innocent kids who are suffering through no fault of their own.”

Florida Trend, Editor’s Page, January 3, 2013

Introduction

The Florida Guardian ad Litem (GAL) Program Standards exist in order to ensure excellence in best interest advocacy for children, while enabling local creativity and innovation to expand representation and meet the needs of the children in their community. The Program Standards were created through a collaborative effort of staff, volunteers, children in foster care, young adults previously in foster care, and other stakeholders.

Program Mission, Vision and Values

Program Mission. Advocating for the child’s best interest is the Program’s only interest.

These Program Standards are to be interpreted and implemented to support this mission.

Program Vision. The Florida Guardian ad Litem Program will provide a powerful and effective voice on behalf of Florida’s abused, abandoned and neglected children and be recognized and respected as a partnership of community advocates and professional staff. To the fullest extent possible, this vision will be realized through volunteers who will advocate as Guardians ad Litem for the children they serve.

Program Core Values. We believe each child deserves an advocate, supported by the Program, to give children a voice. The Program is committed to the following Core Values:

- 1) Commitment to Children- The children for whom we advocate are our most important priority.
- 2) Communication Built on Trust- The Program has a culture of open communication, active listening, teamwork, and regard for the views of others. This includes being honest and straightforward with the children we represent in keeping with their level of age and maturity.
- 3) Circuit Empowerment- Within the framework of the Program Standards, each Circuit has the authority and responsibility to make and implement the best decisions to meet the children’s needs. This empowerment must be passed on to volunteers, staff and attorneys.
- 4) Collaboration- The Program develops relationships that promote the well-being of the whole child.
- 5) Courtesy- The Program values all who engage in this challenging work and ensures they are treated with respect and dignity.

Section 39.8296(2)(b)(3), Florida Statutes, requires the Program to develop statewide standards in consultation with local Circuit Offices. Program Standards are binding for all Program staff and Guardian ad Litem volunteers. The attorneys who are employed by the Program or contract with the Program are regulated by the Rules Regulating the Florida Bar.

The following definitions are provided to ensure common understanding of these Standards:

1. **Guardian ad Litem (GAL)** refers to the representative of the Program who is advocating for the best interests of the child. This term refers to a volunteer Guardian ad Litem (also known as a Volunteer Child Advocate), or in cases where a volunteer GAL is not available, a paid staff member. A GAL is a member of a team that includes a Child's Best Interest (CBI) Attorney and a Child Advocacy Coordinator (CAC). The CBI Attorney advises on matters of law and the CAC serves as an advisor, coach and support for volunteer GALs. The CAC also brings a wealth of child welfare expertise to the team.

Discussion

This definition is consistent with the Program's mission and with Subsection 39.807(2)(b)(3), Florida Statutes, which states, "The guardian ad litem has the following responsibilities... represent the best interests of the child...." Subsection 39.8296(1)(a), Florida Statutes, describes legislative findings and intent by stating, "... the Guardian ad Litem Program has been the only mechanism for the best interest advocacy for children in Florida involved in dependency court proceedings." Federal law requires that every child in a judicial proceeding which results from abuse or neglect have a Guardian ad Litem. Florida law also requires a guardian ad litem to be appointed on every such case.

2. **Child's Best Interest Attorney (CBI)** refers to the attorney employed by the Program to protect a child's best interest either in the circuit dependency courts or the appellate courts. There is no attorney-client relationship between the GAL Best Interest Attorney and the child; however, representing the best interest of the child is the sole purpose of their advocacy.

Discussion

The former class title for this position, "Program Attorney" did not accurately reflect the role of these attorneys. The title was cold, agency-focused and not reflective of their duties. The CBI Attorney's client is the GAL Program, whose sole function is to independently advocate for the best interest of abused, abandoned and neglected children appointed to the Program by the court. The Program has a General Counsel who represents the Program as a whole, while the CBI attorneys advocate only for the best interest of the children served.

3. **Child Advocacy Coordinator (CAC)** refers to the Program employee who advises, coaches, and mentors volunteer GALs, and monitors the child's dependency case.

Discussion

Wherever and whenever possible, the Program will employ Child Advocacy Coordinators to oversee and support the work of volunteer child advocates. Where sufficient volunteers do not exist, staff may provide direct best interest representation for a caseload of children.

4. **Attorney ad Litem (AAL)** refers to an attorney who is appointed by the Court to represent the child. An attorney-client relationship exists between the AAL and the child.

5. **Pro Bono Attorney** refers to an attorney who voluntarily works with the Program. A pro bono attorney may be a Child’s Best Interest Attorney or an Attorney ad Litem. A pro bono attorney can work on a case as a guardian ad litem.
6. **The Program** refers to the Statewide Guardian ad Litem Program, including each individual Circuit Office, the Regional Directors, Program Office, and the Statewide Office.

Standard 1. The Role of the Guardian ad Litem

1.A. Child Visitation. It is best practice for the Guardian ad Litem to visit the child a minimum of once every month for the purpose of building a relationship with the child and to gather information that will allow the Guardian ad Litem to be the voice for the child in the courtroom and the community.

Discussion

The Guardian ad Litem gathers information, advocates and monitors on their assigned dependency cases. The monthly visitation should be conducted at the child’s residence. The visitation can periodically take place at an alternate site, such as the child’s school or child care facility. In certain cases, e.g., when the child is residing outside of their home circuit or out of state, resources may not be available to visit the child every month. The Circuit Director should have an alternate visitation plan in place that includes phone contact with the child and/or the child’s caregiver. The GAL must document their findings and observations from their visit with the child and this documentation must be shared with their CAC on a monthly basis.

Children placed out of county require the GAL’s special attention because these children are often disconnected from their family, friends and community. These children especially need the GAL to be their champion.

Should a GAL encounter barriers in gaining access to an assigned child, the Circuit Office should be notified immediately. Working together, the Circuit Director and the Supervising Attorney must pursue all administrative and legal means to gain access to the child. It is important and necessary to immediately inform the Department of Children and Families (Department), the Community Based Care (CBC) Agency, and the dependency court of any denied access and to work together with them to resolve the issue. Not having access to a child is a “red flag” for the safety of the child and should be treated with a sense of urgency.

1.B. Best Interest Advocacy. The GAL assigned to the child advocates for the child’s best interest working in collaboration with a CAC and a CBI Attorney. This team is responsible for providing best interest advocacy for the child in the courtroom through a written report and

testimony. Best interest advocacy also occurs at other critical decision points including, but not limited to regarding permanency, placement, medical care, adoption and independent living.

Discussion

Using information gathered through child visitations, review of relevant records, interviewing persons involved in the child's life, and guiding by the best interest principle, the GAL submits independent recommendations to the court in collaboration with their CAC and CBI attorney. These recommendations can be made in person and/or through a written report. The GAL knows the child well enough to identify the child's needs and is in the best position to make independent recommendations to the court on the child's behalf. The GAL also conveys the child's expressed wishes to the court regardless of whether the child's wishes are consistent with the GAL's best interest recommendations. The CBI Attorney should ensure that the GAL is recognized by the court and that their name is entered into the record. A GAL should be encouraged to give testimony to the court in support of the written recommendations.

The Guardian ad Litem court report will at a minimum contain the following:

- A statement of the current **Case Plan Goal and its expiration date**. This should include any recommendations to either change a case plan task, the goal, or the expiration date. Any recommended changes must be supported by a statement explaining the need for the change and how it will affect **permanency** for the child.
- A brief description of any failed prior attempts to avoid shelter for child(ren) (i.e. failed safety plans, diversion, intensive family intervention, or community services used to eliminate need for shelter) plus any prior termination of parental rights.
- Information regarding the **current placement of the child** with supportive information about the safety and appropriateness of the placement. If services are needed to stabilize the placement or the GAL believes a change in placement is needed, a recommendation must be included along with a statement on the rationale.
- A clear articulation of the **services needed for the child**. If services are being provided in compliance with all court orders this needs to be stated. Any non-compliance must be brought to the court's attention.
- **Observations of interactions between the child and parents when court has ordered or permitted visitation**. If there is visitation with parents, your observations should include the quality of the visitation, the consistency of visitation and any recommendations regarding changes to the court ordered visitation plan.
- **Status of sibling visitation**, if appropriate. This should include information regarding the frequency and quality of the visitation.
- **Statement of the child's wishes**. This information must be provided to the judge. The child has a right to attend the court hearing and be heard by the Judge.
- **Any additional recommendations relating to the best interests of the child**. Recommendations can be made concerning educational issues, disability issues, immigration concerns, health, mental health, sexual orientation, gender identity,

extracurricular, social, and enrichment activities. 39.701(2)(b) requires a copy of the written guardian ad litem report to be filed at least 72 hours before the judicial review hearing. Local practice needs to ensure there is time for our BI Attorney to review so the reports are filed timely.

It is best practice for both the volunteer GAL and their CAC to sign the written court report as this reflects the collaborative nature of the court report. The CBI attorney signs the Notice of Filing. No documentation should be filed with the Court except through the CBI Attorney. Volunteers' varied backgrounds and diversity makes the GAL Program strong. Volunteers who have credentials are permitted to add them after their name, if they so desire. Volunteers have every right to hold out their professional and academic credentials and designations when identifying themselves, whether through a written report or an email, as in any other customary professional practice or business transaction. Although volunteers are not being used as experts in a case and will testify as lay people, this does not take away from the fact that they may be credentialed and should be permitted to identify themselves as such. This does not in any way make them experts in the case, and the report should not reiterate their credentials to bolster their credibility.

In accordance with Florida Rules of Juvenile Procedure, Rule 8.255, children have the right to participate in all aspects of their dependency proceedings. If it is not in the best interest of the child to attend court or the child does not want to attend court, the CBI attorney needs to be notified by the CAC or GAL.

When a child in care has severe or serious medical needs, the GAL may recommend that a **medical surrogate** be appointed for the child to assist the treating physician(s) with input from the family and the parties, in making medical decisions. When any end of life issues exist, the GAL shall always request a medical surrogate be appointed.

1.C. Mentor. A Guardian ad Litem often fills the role of a stable, supportive and caring adult in the lives of the children we serve. A GAL is encouraged to act as a mentor for a child for whom he or she is also the Guardian ad Litem.

Discussion

In addition to being the voice for the child in the courtroom, a GAL can serve as a mentor, coach and positive role model. Because of the disruption and trauma in their lives, as well as the loss of support networks, foster youth need many things: a permanent, safe home environment; advocacy and representation in legal proceedings; academic assistance; healthcare; and good peer relationships. Most importantly, they need a consistent and caring adult in their lives who can help nurture and guide them. The relationship between a GAL and child can help foster natural and normal childhood experiences.

GALs are permitted to serve as extended "family" for children served by the Program who need and would enjoy the experience of family gatherings and celebrations. The children can share a

family meal, a holiday celebration or any other age-appropriate gathering in the GAL's home if approval is given by their caregiver and the case manager. Sharing a family meal, holiday celebration, or family gathering is different from becoming a full-time caregiver with the responsibilities of parenting the child. If a GAL wishes to become a caregiver for a child whose permanency goal is to age out of foster care without a permanent family, the GAL can be removed from the case and pursue adoption, foster care licensing, or non-relative caregiver status with the appropriate CBC agency.

Volunteers who desire to become foster parents are encouraged and allowed to do so without losing their status as a certified GAL. The volunteer cannot serve as the GAL for a foster child placed in their home. The Circuit Director has the authority to determine the best role for an active foster parent who becomes a guardian ad litem (i.e. courtesy, or case from another county or other assignments) to minimize future conflicts.

GALs are not prohibited from giving gifts to their GAL children. They should exercise good judgment regarding the type and cost of the gift. The child's caregiver should always be consulted prior to the purchase and presentation of any gift for the child. Gifts for the children represented by the Program may be a donation through a designated non-profit. The GAL best interest advocacy includes serving as the person in the child's life that supports and ensures the child's participation in age-appropriate extracurricular, enrichment and social activities.

The Program offers mentor training, and mentor training from a community resource may be used as well. Such training supports the Program's goal to improve the well-being of dependent teens "aging out" of care; training can provide youth with volunteers equipped to offer the one significant adult relationship they need to help them transition to adulthood. Completion of this specialty certification in mentoring must be documented in GAL Tracker.

1.D. Advocate for the child's personal identity development. Best interest advocacy includes respecting, supporting, and nurturing the healthy development of every child's self-identity, including the child's racial, ethnic, language, religious, cultural, sexual orientation and gender identity. A crucial part of best interest advocacy is ensuring that the children have ample and quality opportunities for exploring and defining these important aspects of who they are.

Discussion

When the GAL observes that a placement or circumstance may be unsupportive of or undermining a child's natural growth and development of their self-identity, the following shall be considered:

- Advocacy for trainings or interventions to educate the persons involved, or
- Advocacy for alternative placement or circumstances.

GALs should seek training and support for their own understanding of the child’s self-identity to be an effective advocate.

Standard 2. Guardian ad Litem Certification and Oversight

2.A. Guardian ad Litem Recruitment, Screening and Selection. Each Circuit Director is responsible for recruitment, screening and selection of Guardian ad Litem volunteers who meet Program qualifications and reflect the inclusiveness and diversity that are essential components of quality advocacy for children.

Discussion

A Program application must be completed by all potential volunteers. Volunteers must be screened through an interview process and background checks must be conducted using the Guardian ad Litem Level 2 Background Screening Requirements Guidelines. The selection for pre-certification training is contingent upon successful completion of the application and screening process. The Circuit Director has sole discretion to accept or reject an applicant.

A volunteer GAL must be twenty-one (21) years of age or older. Young adults between the ages of nineteen (19) and twenty-one (21) may become a certified volunteer GAL and work under the guidance of and in partnership with a certified volunteer GAL over the age of twenty-one (21).

Foster parents do not have an inherent conflict of interest in serving as a GAL merely because of their status as foster parents. Circuit Directors may consider a foster parent as the GAL for a child if the child is NOT placed with the foster parent.

Employees of other child welfare related agencies and law enforcement agencies can be considered for GAL volunteer training and certification.

Program staff members who either resign from or are terminated from the Program may still serve as a GAL. If a terminated employee continuing as a GAL would create any type of dissension within a Circuit Office, the Circuit Director will need to make the determination as to the former employee’s status as a GAL. As with all decision making of this nature, the child’s best interest must be the most important factor.

2.B. Guardian ad Litem Pre-Certification Training. A Guardian ad Litem volunteer applicant must successfully complete thirty (30) hours of pre-certification training provided by the Program prior to being certified as a GAL.

Discussion

The Program has guidelines governing the content of GAL pre-certification training. The pre-certification training curriculum should include the following topics:

- Program history and structure
- Dynamics of families including mental health, substance abuse, domestic violence, and poverty
- Overview of types of child abuse and neglect
- Special needs of the children served
- What is best interest advocacy?
- Roles and responsibilities of volunteer GALs and Program staff
- Path of a dependency case
- Permanency goals and planning
- Developing relationships with caseworkers
- Communication skills, interviewing techniques and information gathering
- Cultural diversity
- Child development
- Program Standards and Code of Conduct
- Relevant state and federal laws and regulations
- Writing court reports
- Use of psychotropic medications
- Overview of educational advocacy (contained in guidelines)
- Overview of advocating for older youth and crossover youth (youth engaged with several state agencies)
- Normalcy issues including the ability of GALs to transport
- Community agencies and resources available to help meet the needs of the child
- Best practices for maintaining case files

Included in the thirty (30) hours of pre-certification training, the Program requires each GAL to observe dependency court proceedings before appearing in Court for an assigned case. The amount of time required for court observation should be a minimum of two hours.

Prior to accepting assignment to a case with an allegation of sexual abuse, a GAL must complete an additional training approved by the Program on the “Keeping Children Safe Act” in accordance with subsection 39.0139(4)(a), Florida Statutes.

The Circuit Director should negotiate the terms of any additional training needed to serve the best interests of children, although a foster parent who is currently licensed and who has attended training should be considered as eligible for certification. The licensing file and home study, if any, placing the child with the foster parent will suffice for the required Program background screening provided there has been no break in service.

The Circuit Director should negotiate the terms of any additional training needs with an attorney to act as a guardian ad litem for a child prior to an assignment to be eligible for certification. An attorney, by being in good standing with the Florida Bar, may be approved for certification after any training needs, if needed, are met.

2.C. Guardian ad Litem Program In-Service Training. All non-attorney GAL staff and volunteer GALs must complete a minimum of twelve (12) hours per year of in-service training approved by the Circuit Director.

Discussion

There is no in-service requirement for pro bono attorneys or any attorneys working for the Program. In order to remain active members of the Florida Bar, attorneys are required to complete Continuing Legal Education (CLE) through the Bar. There is no in-service requirement during the volunteer GAL's or staff member's first year with the Program.

Each Circuit Director must ensure that sufficient hours of in-service training opportunities are available on an annual basis in a variety of formats and topics. Annually, each Circuit must provide an in-service training on cultural competency using National CASA's manual and video "World of Difference" or its equivalent. A Circuit Director has the discretion to approve certain non-case related volunteer activities for in-service credit.

The fulfillment of this requirement by volunteers and staff must be documented in GAL Tracker.

2.D. Educational Advocacy Training and Certification. Specialty certification training in educational advocacy is available for all Program staff and GALs to ensure that they have the knowledge and skills to help promote and support the academic progress of children involved in the child welfare system.

Discussion

A GAL can contribute to improving the educational outcomes for a child. The Program has created educational advocacy guidelines to assist the Circuit Director with the development of educational advocacy training, resources and community partnerships. Completion of this specialty certification in education must be documented in GAL Tracker.

2.E. Guardian ad Litem Program Team Model. Each GAL works within a team of an assigned CAC and a CBI Attorney to advocate for the best interests of the children represented by the Program.

Discussion

The Program's team model capitalizes upon the expertise of each team member working with the child. Each has a unique perspective and different professional background that complement the others and enhance the quality of the advocacy for the child. The fundamental principle of effective team decision making is information sharing. Each team member has an obligation to ensure that all members of the team have the most current information from which to form an opinion on issues in a case. All case related documents and reports should be created, maintained, updated and distributed in a manner which conforms to statutory time frames and local circuit policy.

In nearly all cases, the GAL will have first-hand knowledge of the facts of the case. When a conflict arises as to an issue of fact, the team shall defer to the GAL. When a conflict arises as to an issue of law, the team shall defer to the CBI Attorney.

If there is a circumstance when a conflict cannot be resolved within the team, the Circuit Director and Supervising Attorney should be consulted and should work together to resolve the conflict; if necessary, they should consult with the Regional Director and the Chief Legal Counsel. In the rare event that an agreement cannot be reached, the conflict shall be referred to the Director of Operations with legal consultation from the State Director of Legal Services. There may be times when a GAL strongly recommends an action that is not consistent with state law; in those cases, the report to the court may be written to recognize the GAL recommendation, but point out that under current law, this action would not be permissible.

If the CAC and/or the CBI Attorney believe that it is in the child's best interest to remove the assigned GAL from a case, the case must be staffed with the Circuit Director and the Supervising Attorney prior to any action being taken. Information regarding the GAL's advocacy and the reasons for the proposed removal of the GAL from the case must be documented. No GAL shall ever be removed from a case without being informed of their team's concerns by the Circuit Director and having the opportunity to respond. The decision to remove a GAL from an assigned child is up to the Circuit Director and the decision may not be delegated.

In keeping with the Program's Core Values of Communication and Collaboration, the team model of advocacy must include timely and consistent information sharing with all the parties involved in each child's case. This will include the CAC sending a copy of the GAL's child visitation report to the child's caseworker. It is in the best interest of a child for the GAL to provide information and insight that will assist all persons in a position to make decisions affecting the life of the child.

Incident Reporting is also an important tool to ensure that team members and GAL leadership are aware of significant events in the lives of the children we represent. Circuit Directors will remain in constant contact with the Regional Directors regarding ongoing operations and any significant developments.

2.F. Guardian ad Litem Annual Recertification Reviews. Each Guardian ad Litem volunteer shall participate in a re-certification review at least once every twelve (12) months.

Discussion

The volunteer GAL recertification review is an important part of the Program's overall evaluation process and is critical in providing both the Program and the volunteer with feedback necessary to improve and grow. It also gives staff an opportunity to let volunteers know the importance of their role. The elements of the review should be based on the expectations detailed in the GAL's roles and responsibilities.

The volunteer GAL recertification review should include an opportunity for self-evaluation by the volunteer as well as evaluation by their team members. The open and honest communication that should take place during this review is essential to building and nurturing the Program's team model of advocacy. This type of communication and feedback is encouraged to take place on an on-going basis and not just during the review process.

2.G. Guardian ad Litem Records. The Program maintains a written record for each Guardian ad Litem volunteer and retains the record after a volunteer has left the Program in accordance with the Program's records retention policy.

Discussion

The Circuit Director is responsible for ensuring that all volunteer Guardian ad Litem personnel records are kept up to date and contain at a minimum:

1. Application
2. Emergency and identifying information
3. Reference documentation
4. Documentation of all records checks
5. Training records
6. Recertification reviews and any other applicable documentation related to performance
7. Documentation of volunteer status
8. Copy of volunteer's current driver's license, motor vehicles records check and verification of automobile insurance, if the GAL is approved for transportation

2.H. Non-Case Volunteers. The Program utilizes volunteers to provide support and enhancements for the daily operations of the Program.

Discussion

Volunteers should be recruited to help Circuit Offices be more effective and efficient. If these volunteers will not be assigned to cases, they will not need to complete the thirty (30) hours of GAL training. Each Circuit Director must develop and implement an orientation that will assist such volunteers in understanding their roles and responsibilities. They will also need to complete the same background screening as a certified Guardian ad Litem and sign a confidentiality agreement should they be working with confidential case records and information.

Youth seventeen (17) years of age and older can serve as office volunteers as long as their service to the Program ensures that confidentiality is maintained. These youth should receive an orientation that provides them with an understanding of the Program's mission and responsibilities. Background screening is required for youth as for adults.

Standard 3. Code of Conduct

The Program requires all staff and volunteers to follow a Code of Conduct and to read, sign and date a copy of the Code of Conduct upon hiring or application to become a GAL. The signed Code of Conduct will be placed in the employee's or volunteer's personnel file.

Code of Conduct

Guardian ad Litem Staff and Volunteers shall:

1. Diligently represent and be guided solely by the best interests of the child and only take actions that are within the scope of a GAL's roles and responsibilities;
2. Hold confidential all information obtained in the course of service as a Guardian ad Litem even after such service has ended, as required by law;
3. Report any new or suspected incident of child abuse or neglect to the Florida Abuse Hotline and his or her supervisor;
4. Monitor an assigned child regularly, including visiting the child once every month at a minimum, unless an alternative visitation schedule has been approved;
5. Submit documents to the court through the CBI Attorney;
6. Notify the Circuit Director if the GAL or any member of the GAL's family becomes involved in an investigation or a case with allegations of child abuse or neglect;
7. Advise the Circuit Director if he or she is arrested, charged with, or convicted of a criminal offense; if the staff or GAL is an attorney, he or she must advise the Circuit Director if he or she becomes the subject of a complaint registered with the Florida Bar;
8. Act with professionalism at all times while representing the Guardian ad Litem Program;
9. Uphold and comply with all of the Program's Standards and guidelines as well as any local Circuit Office guidelines;
10. Not practice, condone, facilitate, or participate in any form of discrimination on the basis of race, color, gender, sexual orientation, gender identity, age, religion, ethnicity, marital status, political belief, mental or physical handicap, or any other preference, personal characteristic, condition, or status;
11. Not accept a fee for services as a GAL while serving as a GAL for the Program; and
12. Not engage in ex parte communication with the Judge.

Standard 4. Acceptance and Assignment of Cases

4.A. Case Acceptance. Circuit Directors shall work with the court to ensure that acceptance of cases does not exceed the capacity of the Program's resources.

4.B. Case Assignment. To most effectively provide best interest advocacy for dependent children within the given resources, the Program prioritizes assignment of cases.

Cases will be given priority assignment when:

- A termination of parental rights petition has been filed or a decision to pursue a goal of adoption has been made.
- Notice has been given that the child will be evaluated for residential mental health treatment or the child has been placed in a residential mental health facility.
- Children in shelter or foster care who are ten (10) years of age or less are being evaluated for psychotropic medication or are being administered psychotropic medication.
- Children who have been rescued from prostitution and are determined to be victims of human trafficking under the "Safe Harbor Act."
- The child is placed, or is being considered for placement, in a skilled nursing facility.

When assignment of GALs to prioritized children has been completed and resources to represent additional children are available, each Circuit Director shall examine the child advocacy needs specific to their community, based on outcomes for children and in consultation with community partners and the judiciary, to determine additional local priorities. Generally, in each Circuit, children who have not been removed from their caregiver shall have a GAL only after all children who are in out of home care or post reunification have a GAL assigned.

Discussion

To receive funding under the Federal Child Abuse Prevention and Treatment Act of 1975 (CAPTA), every case involving an abused or neglected child must be appointed a Guardian ad Litem to represent the child in dependency proceedings. Because resources are limited, when a child is appointed AAL representation, the Program may motion the court to remove (discharge) itself from that child's case unless a Petition for Termination of Parental Rights (TPR) is being pursued.

Factors which determine priority assignment are identified in section 39.807(2), Florida Statutes, mandating the appointment of a GAL to represent the best interest of children in any involuntary TPR proceeding and section 39.407(6), requiring the appointment of a Guardian ad Litem for all children placed in a residential treatment center pursuant to the same.

The Program has included an additional priority assignment of children ten (10) years of age or under who are being evaluated for or are prescribed psychotropic medication. Concerns regarding the use of psychotropic medications with children stem from the limited information that is available regarding the efficacy and the potential side effects of psychotropic medications on children.

Children who have been rescued from prostitution and are victims of human trafficking also receive priority for services. The Safe Harbor Act provides that when there is probable cause to

believe a child has been sexually exploited, law enforcement shall deliver the child to the Department. The Department must assess the child for placement in a safe house if one is available. A “safe house” must have gender-specific, separate and distinct quarters for these children and youth. All safe houses must be licensed and must provide 24-hour awake supervision and services appropriate to the needs of sexually exploited youth. Enhanced training will be made available for volunteers who are assigned these cases.

The final priority is children who are placed or being considered for placement in a skilled nursing facility, since children in nursing homes often require advocacy or litigation with other state or federal agencies (e.g., the Agency for Persons with Disabilities, the Agency for Health Care Administration, Vocational Rehabilitation, and the Social Security Administration). The Court must appoint an AAL selected by the Program. It is critical that a GAL work with the AAL since the child is often placed in a nursing home away from the home jurisdiction. The AAL is likely to focus on specialized advocacy such as obtaining guardianship for the child or seeking administrative remedies for services.

After assignment of priority children, the Circuit Office has authority to assign the remaining cases according to the availability of volunteer resources. Effective case prioritization is achieved by matching the advocacy needs of dependent children with the abilities, talents, and skills of available volunteers.

Children who have a GAL are more likely to find a safe, permanent home and receive more services. They are also more likely to have a consistent, responsible adult presence in their lives, spend less time in foster care, have increased placement stability, and have better educational outcomes. When resources are limited, the Program must use them in the most effective way to impact safety, permanency and well-being. Circuit Offices with the capacity to serve more children than those in priority categories will determine local priorities for meeting the remaining service needs.

4.C. Guardian ad Litem Caseloads. A volunteer Guardian ad Litem should be assigned to only one or two cases at a time.

Discussion

In most circumstances, a GAL should be assigned a maximum of two (2) cases, but may upon demonstration of ability and desire be assigned up to five (5) cases. Beyond five (5) cases, a Circuit Director may grant an exception on a case-by-case basis. Consideration for such an exception should include the Circuit Director’s careful assessment of the GAL’s experience, capabilities, conduct, availability, performance and the recommendation of the volunteer’s CAC. An important strength of our Program is the focus a GAL can provide to a limited number of children at a time. This Program Standard is consistent with the National CASA Standards.

4.D. Representation of Related Children. The appointment of the Program to advance the best interest of multiple related children or parents presents no conflict of interest necessitating discharge, in accordance with Rule 4-1, Rules Regulating the Florida Bar.

Discussion

When determining whether there is a conflict of interest, the first prong of the conflict of interest is not satisfied as there is no attorney/client relationship between an attorney and a child assigned to the Program. The GAL is a party to the proceedings separate and apart from the child represented. The GAL duty of loyalty is that the child's best interest be represented, and to the court to ensure they have all the facts upon which to make a decision. Since state and federal law require a GAL to be on every dependency case and there is no legal requirement to discharge off a case on the basis of conflict of interest, the Program must remain on a case, unless: 1) there are other reasons that are supported by the best interest of the child, 2) the court discharges the Program, or 3) there is a real conflict of interest because GAL staff are involved as part of an active child welfare case.

Since the critical Guardian ad Litem focus is on the best interest of the child, GAL volunteers and staff must always be honest with children and youth, in an age appropriate way, about our role as Guardians ad Litem and how we advocate for the "best interest of the child."

The GAL must always be open and honest about our past role with children involved in the case. In addition, every Circuit must resolve how we make recommendations to the court in the following situations:

1. When the Program simultaneously represents a minor parent and that minor's child(ren);
2. When the Program represents a minor child and previously represented the minor child's parent and the information from the representation of the parent could now be used to the disadvantage of the parent;
3. When the Program represents two or more children where the best interests of one child are incompatible with or in any way contrary to the best interests of another.

Possible resolutions may include: 1) use of pro-bono attorneys or 2) assigning a GAL from a different circuit, county, or unit. The Circuit may consider additional options based on local circumstances and resources. The Program strives to assign an active GAL to all children the Program is court-ordered to represent, within available resources.

4.E. Discharge of the Guardian ad Litem Program. When the Program determines it is unable to accept appointment to a case or assign the case within thirty (30) days of appointment, a motion to discharge shall be prepared and filed with the court.

Discussion

Circuit Directors must have a procedure for visiting all children and assessing the needs of the children prior to filing a motion to discharge. No motion should be filed to discharge off a case based solely on the inability to assign without supportive information based on a face-to-face visit with the child(ren) and a review of available records. The decision to petition the court to be discharged from a case may be made on a case-by-case basis when a child's needs are being met through other advocacy resources, or when their permanency goal is achieved. A request of the court to discharge should not be considered unless there are insufficient resources to meet the needs of the children assigned to the Program.

If the court systemically denies discharge from cases, the Circuit Director and Supervising Attorney must request assistance from the Statewide Office. A possible option may be the filing of a "Notice of Unavailability" on cases where discharge has been denied stating that the Program will be unable to take any action on the case. It is critical we are open and honest with all parties to the case and especially with the Judge when we do not have enough volunteers and staff to represent the child(ren).

4.F. Out of Circuit Cases. Every child to whom the Program is appointed, regardless of whether they are placed within their circuit of jurisdiction or within the State of Florida, shall have their case assessed. These cases are important to assign and represent because they are far away from the community, and the Judge in the sending Circuit depends on the GAL from the receiving Circuit to ensure accurate information is used in making decisions for that child.

Discussion

All children referred for out-of-circuit assistance will, at a minimum, receive one assessment visit by the receiving office to facilitate the best decisions possible.

There is no statutory authority for the Program to provide child-specific support for advocacy services from another state's court, GAL or CASA (court appointed special advocate) Program. This does not preclude a Circuit Director from providing information regarding services and resources that will assist the requesting state with their advocacy. This could include a visit to the planned placement for the child in order to provide the requesting state with needed background and safety information which if completed does not violate the Interstate Compact on the Placement of Children (ICPC). This visit can only be conducted with approval from the prospective caregiver and the placement agency. If the ICPC issues are not being followed by the requestor, the requestor should be referred to their home state to pursue placement through the ICPC process.

In no event should a GAL conduct a home study in Florida for the purpose of placement of a child from another state or otherwise give an opinion on the appropriateness of the placement. The ICPC (F.S. 409.401, et.seq.) governs such requests.

Standard 5. Attorney ad Litem Appointment

The Best Interest Attorney shall request the appointment of an Attorney ad Litem (AAL) in any case in which it would further the child's best interests. In all cases in which a child may be placed in a residential mental health treatment facility, the Program shall request appointment of an AAL as provided by Section 39.407, Florida Statutes. An AAL must always be appointed for a child placed in a skilled nursing facility or for a child being considered for placement in a skilled nursing facility; these attorneys must be selected by the Statewide Office.

Discussion

Children in dependency proceedings have no constitutional right to representation by counsel. *Lassiter v. Dept. of Social Services of Durham County, North Carolina*, 452 U.S. 18, 101 S.Ct. 2153 (1981); *In the Interest of D.B.*, 385 So.2d 83 (Fla. 1980); *In the Interest of C.T.*, 503 So.2d 972 (Fla. 4th DCA 1987). The law provides a limited right to an attorney for a dependent child when the child objects to placement in a locked treatment facility pursuant to Rule 8.350 of the Florida Rules of Juvenile Procedure. In addition, an AAL must be appointed for a child placed in a skilled nursing facility or for a child being considered for placement in a skilled nursing facility, based on specific Proviso Language in the FY 13-14 General Appropriations Act.

The court on its own or upon motion of any party, including the child, can appoint an AAL. Florida Rules of Juvenile Procedure 8.217(a), state, "... the court may consider whether an attorney ad litem is necessary to represent any child alleged to be dependent, if one has not already been appointed."

Reasons to seek appointment of an AAL include, but are not limited to: cases in which the child needs a guardianship, or where a special expertise may be needed such as immigration law, disability law, or other administrative forums. When there are insufficient pro bono attorneys available in the community and resources are available to do so, the Program may contract for AAL services.

Standard 6. Case Records

6.A. Case File Maintenance. The Program maintains records for each child represented and follows guidelines for the retention, protection, destruction, and return of the case files when the case is closed in accordance with the statutory provisions of Chapters 119 and 257, Florida Statutes.

Discussion

Each case file should at a minimum include the following:

1. The Court Order of Appointment
2. A case fact sheet

3. Notice or Oath of Acceptance
4. Court orders
5. GAL court reports filed with the court
6. Court hearing notes
7. GAL visitation reports
8. Correspondence
9. Legal and non-legal staff case notes and documentation of each Program contact on case related activities
10. Case Plan(s)
11. Copies of any documents filed with the court (i.e. pleadings, motions, discovery, mediation agreements); and
12. Any other documentation regarding the child or child's family that is contained in the court's file.

Should the Guardian ad Litem wish to include a picture of the child in the file, this is permitted.

All volunteers are required to turn in their case files, including all notes, when the case is closed. The Circuit Director must ensure that there is a written procedure in place for the retrieval and archiving of all closed case files. Retention and destruction of all case files must be in accordance with the Program's Record Retention Schedule.

6.B. Confidentiality. All staff and Guardians ad Litem must maintain confidentiality. Disclosure of information to any person who is not a party to the case shall only be made in furtherance of the child's best interest.

Discussion

Confidentiality of case records and information relating to the case extends beyond the closure of the case and does not end when any GAL or staff member resigns or is terminated from the Program.

Standard 7. Transportation of Children

In the spirit of promoting social, extracurricular and enrichment opportunities for children, GALs approved by the Circuit Director shall be permitted to transport children represented by the Program. Transportation of children can promote trusting relationships between the volunteer and the child, and can enhance the quality of best interest advocacy.

Discussion

Section 39.8296(2)(b)(7), Florida Statutes, permits a volunteer GAL to transport children represented by the Program. Legislation allowing volunteers to transport children was unanimously approved by the Legislature and signed into law in 2012 to promote normalcy and assist with establishing trust between a volunteer and child. Transporting children was also

supported by interviews with children as captured in the Program's 2012 and 2013 Legislative Status Reports, *A Voice Heard*. Additional benefits to the transportation of children by a GAL are: child safety, improving communication between the GAL and child, and a positive effect on volunteer retention.

Program staff who are not CACs or staff GALs can become a certified GAL and have the same ability as other volunteers to transport children. A CAC and a staff GAL may voluntarily choose to transport on only one case within their assigned caseload; these staff must follow all necessary procedures to ensure that the Program does not violate any federal or state labor laws.

In order to be approved to transport children, staff and volunteers must have a valid driver's license and proof of automobile insurance. Approval to transport must be properly documented in the personnel file and in GAL Tracker, the Program's database system. No volunteer or staff member may be **required** to transport a child. The court cannot order GAL staff or volunteers to transport a child. Any denials to transport are determined by the Circuit Director.

Any child appointed to the Program five (5) years of age or older is eligible to be transported. Approval can be given by the Circuit Director for a child under the age of five (5), on a child-by-child basis. Transportation should be documented in a travel log, case notes or a child visitation report.

Standard 8. Guardian ad Litem Good Samaritan Policy

A GAL may transport a child when a situation arises that presents an emergency or safety issue for the child.

Discussion

One of the benefits to permitting the transportation of a child by a GAL is to impact emergency situations that may arise in the child's life, such as a runaway incident or the child's need to be transported away from a situation where they feel unsafe. The relationship between the child and their GAL is built on trust and the GAL's consistent presence in the child's life. It is due to this special relationship that the child may reach out to their GAL to facilitate their safe return from a runaway episode or to address other types of safety issues.

A GAL will never be **required** to transport a child in this type of situation. If the GAL voluntarily chooses to pick up and transport the child, the GAL must always be in communication with the child's caseworker and/or "on call" case management staff, and the GAL's CAC, who must notify the CBI Attorney of the circumstances that warranted transportation of the child in an emergency situation. Together they will make the decisions necessary to resolve the immediate emergency or safety concerns and/or ensure that a placement that is in the best interest of the child is identified and a request made to the court to approve this placement. In

keeping with the Program’s core values, the GAL must be honest with the child about what they can or cannot do in this situation.

The Circuit Director or their designee must be notified and updated when a GAL is involved in a situation as described in this standard.

Standard 9. Participation in Childhood Activities

The GAL shall advocate to remove barriers that prevent children from participating in age-appropriate extracurricular, enrichment and social activities (normalcy) as required by Section 39.4091, Florida Statutes.

Discussion

The GAL Program recognizes the importance of foster children being able to participate in activities just as any other child might. “Participation in these types of activities is important to the child’s well-being, not only emotionally, but in developing valuable life-coping skills.” Section 39.4091, Florida Statutes (2013). Section 39.4091, Florida Statutes, requires caregivers, rather than caseworkers, the Department or the Court, to make decisions regarding activities in which foster children may participate – removing obstacles and red-tape. The GAL Program is dedicated to working with the caregiver, the Department and the Court to ensure that barriers are overcome and caregivers are empowered to make decisions regarding activities promoting normalcy for the foster children in their care.

Identifying the Caregiver. Each group home or shelter must identify someone to be the “caregiver” for making decisions in accordance with Section 39.4091, Florida Statutes. A *person* must be identified as the caregiver, not a committee or an office. If a foster child is in a group home, the GAL should determine who the caregiver is that will be making decisions regarding activities for the foster child. The statute is written to ensure that group homes are **not** exempt from normalcy requirements. (See Section 39.4091(2)(b), Florida Statutes.)

Prior Approval Not Required. Neither the case worker nor the Department may require prior approval of the caregiver’s own assessment using a reasonable and prudent parent standard. If the caregiver, be it foster parent, relative caregiver, group home, shelter, or non-relative non-licensed caregiver, is not being permitted to make reasonable and prudent decisions for a child, the GAL must inform the CBC and the Department. (See Section 39.4091(1)(d), Florida Statutes.)

Pre-existing Court Orders. A caregiver’s decisions regarding normalcy activities cannot be contrary to a pre-existing court order. For example, if there is court ordered visitation with the child’s parents on Saturdays, a normalcy activity planned or approved by the caregiver would not trump or take precedence over an existing court order for Saturday visitation. If a court order appears to be contrary to the reasonable and prudent parent standard, the GAL shall request a staffing with a CBI Attorney to determine the appropriate course of action.

Policies or Practices That Are Barriers. The GAL shall notify the Department if there is a policy or practice that is inconsistent with Section 39.4091, Florida Statutes. If, after notifying the Department of a barrier to normalcy, the Department does not take action, the GAL shall notify the Court that the Department has failed to take action.

If a policy or practice of a private agency providing out-of-home services is a barrier to normalcy for foster children, the GAL must work to remove that barrier. Examples of such barriers are rules like, “no child may have a cell phone or computer,” “no child can get a learner’s permit,” or “no child may play high school football,” etc. These are policies that would be contrary to Section 39.4091, Florida Statutes.

Caregiver Making the Decisions. Section 39.4091, Florida Statutes, requires a caregiver to make decisions regarding a foster child’s participation in childhood activities as any other “reasonably prudent parent” would make the same decisions. The GAL shall notify the Department if the caregiver is making normalcy decisions inconsistent with the reasonable and prudent parent standard.

Although caregivers may consult with case managers and others prior to making decisions regarding activities in which their foster children participate, it is ultimately the caregiver’s decision. The Department, therapist, CBC staff, the GAL, other caregivers, and case managers may offer advice to support the caregiver in making decisions as a reasonable prudent parent, however, they may not make the decisions for caregivers. The GAL should be continuously aware of *who* is making the decisions for foster children. If there are logistical or cost barriers to participation in activities the GAL can advocate for solutions, including support from other providers, non-profits, and community resources.

Advocating for children to participate in age-appropriate activities is consistent with the Program’s mission of representing the best interests of the children we serve.

Standard 10. Promoting and Advancing Inclusiveness and Diversity

The Program is committed to promoting and advancing diversity and inclusiveness as essential values. The Program shall continue to demonstrate its commitment on both a state and local level by promoting diversity and inclusiveness in all Program administration, management and volunteer recruitment. The Program shall advocate for the children it serves consistent with its commitment to the values of promoting and advancing inclusivity and diversity.

Discussion

Differences in age, race, ethnic heritage, religion, sexual orientation and gender identity provide experiences, perspectives and ideas that can enhance our work environment and elevate our child advocacy. By embracing these differences in how we recruit and train Program staff, volunteers, and board members for our designated non-profit organizations, we provide the best services for the children we serve with the honesty, integrity and respect that

all persons deserve. The Program is committed to include among staff, volunteers and board members, persons who share the background and experiences of the children they represent. The objective is not to set quotas of participation, but rather to enrich the Program by offering the training that is necessary to further integrate diversity and understanding into its daily practice.

Standard 11. Public Relations

11.A. Media Relations. The Program responds to media inquiries accurately and timely while protecting the privacy of the children it represents.

Discussion

As a public agency, the Program must be open and accountable to the public. Concurrently, the Program must also protect the privacy of the children it represents.

The Circuit Director must ensure that the Program does not provide information to the media that relates to a specific child in accordance with the Confidentiality Standard and Program protocol.

Staff shall inform the Circuit Director whenever they or a GAL are contacted by the media. If the contact is regarding a specific child, the Circuit Director shall contact their Regional Director and their Chief Legal Counsel.

11.B. Public Awareness. The Program disseminates public information to broaden awareness of the Program, its mission and its needs, and to recruit volunteers to represent children in the dependency system.

Discussion

It is important and essential for the growth of the Program to increase the public's understanding of the Program. General information about the Program may be distributed to media representatives. Youth who are recognized by the Program and want to share their story are permitted to do so.

Standard 12: Innovative and Progressive Leadership

The Executive Director of the Program has the authority to approve individual exceptions to the Standards when the action taken or requested by the GAL or staff member is in the best interest of a child.

Discussion

Program Standards do not exist to impede the ability to think and plan in a creative and enlightened manner. The children served by the Program need and deserve GAL staff and

volunteers who are forward thinking and innovative in order to solve all challenges we may face. Innovative and progressive leadership is expected to be the norm, not the exception.

**VERIFICATION OF RECEIPT
GUARDIAN AD LITEM PROGRAM**

PROGRAM STANDARDS AND CODE OF CONDUCT

This will certify that I have received and reviewed the July 1, 2013, ***Guardian ad Litem Program Standards***, and have had an opportunity to discuss this with my supervisor if I had questions.

I have also reviewed the Guardian ad Litem Program **Code of Conduct** on pages 16 and 17, and understand that this **Code** and the **Standards** should guide and govern my actions while employed by or volunteering for the Guardian ad Litem Program.

SIGNATURE

PRINT NAME

DATE





GAL

Guardian ad Litem

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