



**FivePoints**



## **Guardian ad Litem Attorney Compensation Analysis**

*Florida Guardian ad Litem Program*

June 30, 2014





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### 1. EXECUTIVE SUMMARY

The Florida Guardian ad Litem Program (GAL) requested a compensation analysis for salaries paid to GAL attorneys to determine what action, if any, would improve the efficiency and effectiveness of the GAL Program in serving some of Florida's most vulnerable children. For some time it has been known attorney salaries paid by the GAL Program are some of the lowest, if not the lowest, in Florida state government. The Program needed an objective review and recommendations to make the best decisions about future actions that will ultimately improve outcomes for the children served by the Program.

The review disclosed the following (see Findings section for further details):

- GAL attorneys are the only attorneys who do not receive the benefit of paid insurance when compared to attorneys in the State Personnel System (SPS) and those in the Justice Administration System (JAS).
- GAL Program Attorney's annual average salaries are almost the same as others in the JAS, with one distinct difference: JAS attorneys receive paid insurance benefits.
- Turnover in the GAL Program is quite high for Program Attorneys and Supervising Attorneys (30% and 25%, respectively, for SFY 2013-2014)
- GAL Senior Attorney and Supervising Attorney minimum salaries are significantly below the salaries of comparable positions in the SPS – 14% lower for Senior Attorneys and 36% lower for Supervising Attorneys. These differences increase dramatically when compared to actual average salaries.
- GAL Program Attorney minimum salaries are slightly higher (by about 5%) than attorneys in the SPS, however, when compared to actual average salaries, the GAL attorneys are about 9% lower. As noted above, the SPS attorney positions receive paid insurance benefits and the GAL attorneys do not, so the difference in compensation is actually greater.
- Compared to the Department of Children and Families Children's Legal Services attorneys, GAL Program Attorney current actual average salaries are 8% lower than DCF minimums. For Senior Attorneys, this difference is 11% and for Supervising Attorneys, the difference is 54%.
- A survey of GAL attorneys indicated almost half are seeking other employment due to salary issues. Informal interviews indicated high student loan payments are a significant concern to many GAL attorneys.
- GAL attorney caseloads are around 150 – exceeding that recommended by the American Bar Association, Center on Children and the Law, National Association of Counsel for Children, of no more than 100. Additionally, GAL attorneys do not have the benefit of support positions, such as paralegals, as many other state attorney positions do, making the high caseloads even more difficult to manage.



Because of the above findings, we make the following recommendations (see Recommendations section for further details):

- Work with the Justice Administrative Commission (JAC) to re-class the GAL attorney positions so they are eligible to receive paid insurance benefits. Request additional funds necessary for the cost (currently estimated at \$200,000).
- Request funds to increase the minimum salaries for Senior and Supervising Attorneys to get them up to the SPS minimum.
- Request funds to increase the minimum salaries for Program Attorneys to get them up to the minimum salary used by the Florida Department of Children and Families for their Children's Legal Services attorneys.
- Consider pursuing a loan forgiveness program similar to that used for the Nursing Student Loan Forgiveness Program, see 1009.66, Florida Statutes.
- Consider adding paralegal staff to the Program to assist attorneys in better managing the current caseloads.

Note there is an inherent assumption that the Florida Legislature has made clear what it believes to be fair compensation for government attorneys by approving the current salary levels for SPS and JAC attorney positions. Aligning GAL attorney positions more closely with these other positions, provides the GAL Program the same opportunity as other state agencies and programs to recruit and retain attorneys who, arguably, are serving Florida's most precious resource – its children.



## 2. THE GUARDIAN AD LITEM PROGRAM

### 2.1. Statutory Requirements

Chapter 39.822, F.S., requires the appointment of a guardian ad litem “at the earliest possible time to represent the child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal.” This means a GAL must be appointed for any child entering the dependency system whether they are removed from the home or placed under in-home supervision (i.e. “100% representation”).

Further, Chapter 39.8296, F.S., (which first became law in 2003) best describes the Legislative intent and vision for the program:

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that for the past 20 years, the Guardian Ad Litem Program has been the only mechanism for best interest representation for children in Florida who are involved in dependency proceedings.

(b) The Legislature also finds that while the Guardian Ad Litem Program has been supervised by court administration within the circuit courts since the program’s inception, there is a perceived conflict of interest created by the supervision of program staff by the judges before whom they appear.

(c) The Legislature further finds that the Governor’s Blue Ribbon Task Force concluded that “if there is any program that costs the least and benefits the most, this one is it,” and the guardian ad litem volunteer is an “indispensable intermediary between the child and the court, between the child and DCF.”

(d) It is therefore the intent of the Legislature to place the Guardian Ad Litem Program in an appropriate place and provide a statewide infrastructure to increase functioning and standardization among the local programs currently operating in the 20 judicial circuits.

### 2.2. The Program Today – A Model of Efficiency

The sole mission of the Guardian ad Litem Program is to advocate for the best interests of Florida’s dependent children - “Advocating for the child’s best interest is the Program’s only interest”. The goal of this advocacy is to achieve the safest and most positive outcomes for these children. The Program represents thousands of children with the help of volunteers. As of June 2014, the Guardian ad Litem Program advocated on behalf of almost 22,000 children.

The Program’s core values clearly support the mission:

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.

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

The Guardian ad Litem Program has focused on steadily increasing the return on investment of funds appropriated by the Florida Legislature by increasing the use of volunteers to comply with the statutory requirement of 100% representation. In 2006, the Florida Legislature appropriated \$7 million in new funding which resulted in an increase in the volunteer base to 5,413, the largest number of volunteers in its 26-year history.

Even with the additional funding, in 2007, the volunteers represented only 55% of the children served. Unfortunately, the 2008 Legislature reduced the Program's budget by 4%, and then by another 3.2%, resulting in staff reductions and a corresponding reduction in the number of children served.

Funding did finally stabilize, and in 2013, the Program received an increase toward the goal of 100% representation, and then another significant increase for 2014-15. Currently, the GAL volunteers advocate for almost 80% of the children served, as close to the 100% goal as the Program has been in its history. The Long Range Program Plan (LRPP) clearly states the goal of 100% representation:

**Priority # 1 Goal:**

*To provide effective advocacy and improved outcomes for all of Florida's abused, abandoned, and neglected children.*

**Goal 1 Objective:** *Represent all children under Court supervision as reported by the Department of Children and Families.*

Outcome: Average number of children represented.

<u>Baseline</u>	
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FY 2011/2012	FY2013/14	FY2014/15	FY2015/16	FY2016/17	FY2017/18
21,847	22,972	25,137	27,302	29,467	31,630

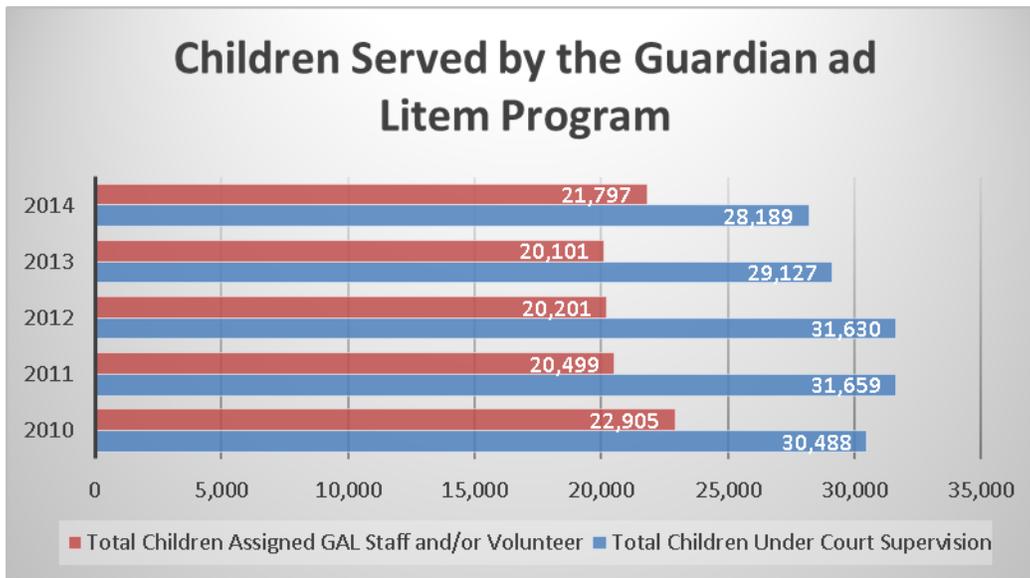
Average percent of children represented.

<u>Baseline</u>	FY 2011/12	FY2013/14	FY2014/15	FY2015/16	FY2016/17	FY2017/18
	69%	73%	79%	87%	93%	100%

If the GAL Program continues to receive the funding required to achieve its LRPP plans, then you will see the chart below equalize between the number of children served, and the number of children under court supervision.

The chart below illustrates history, showing the total number of children served by the Guardian ad Litem Program since 2010, compared to the number of children under court supervision for those years. You will note that during years with budget cuts, the number of children served decreased. However, as of 2013 and 2014, those numbers are again rising.

**Children Served by the Guardian ad Litem Program**



In 2012 and 2013, Florida’s Guardian ad Litem Program received a Davis Productivity Eagle Award for “streamlining efficiencies to focus on commitment to children”, emphasizing their ability to use all of their resources in the most cost efficient and effective manner possible. The advocacy team is comprised of over 500 Program staff members; over 9,000 volunteer advocates and many non-profit organizations who diligently pursue the goals in a proven public / private partnership model. It takes proactive collaboration and teamwork among child welfare agencies, legal organizations and community partners to realize the benefits for dependent children and families.

Beyond efficiency, the Program has spent the last several years moving toward accountability, transparency and professionalism and can be measured and articulated in a concise and obvious way to the Program’s stakeholders.

One of these activities is the publication of program standards in January 2014. These standards put into writing the evolved expectations of Program staff and volunteers. The Gold Standard for GAL is to provide standards to inspire and empower volunteers and staff to say, “I am for the Child.” “I am for the Child” is the theme for the updated standards. This philosophy reflects the fact the Program staff have listened to the children and young adults in foster care and have heard their voices in developing the standards, which reflect a high level of empowerment, and lay the foundation for guardians and staff to make an even greater difference in the lives of children. The Program standards exist 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 served.

In addition to the Program Standards, which was a significant step forward, the Program staff are committed to further improvements, such as creating a certification program for the Child Advocate Coordinators. This certification would be similar to that of the Department of Children and Families (DCF) Child Protective Investigators (CPI), Sheriff's Department Child Investigators and Community Based Care (CBC) case managers.

The Program also has a file based *Quality Improvement Initiative* that examines work product with a clear result in mind: "What was the impact of GAL involvement in the case?" The Quality Improvement Initiative uses a combination of file based and peer reviews of work product to discover how the GAL advocacy could have been improved. One of the most important outcomes in child welfare is stability for the dependent child. In 2011, 68% of cases closed by the Program resulted in a permanent placement for the child. Using the Quality Improvement Initiative, as well as training and other tools, the Program has a goal to improve these results even further, as stability and a permanent home are key elements in best interest representation. See Attachment I – GAL May 2014 PASS.

### **2.3. Roles of the GAL Staff and Volunteers**

The efficiencies recognized by the Davis Productivity Award resulted from a decade of evolving the model so volunteer advocates (the Guardian ad Litem, or GALs) are supported by a team of GAL Program professionals. The roles of the team members are best defined by the following excerpt from the Program Standards (updated in 2014): "each GAL (volunteer) works within a team of an assigned Child Advocacy Coordinator and a Child's Best Interest Attorney (also referred to as Program Attorney) to advocate for the best interests of the children represented by the Program. 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 volunteer. When a conflict arises as to an issue of law, the team shall defer to the CBI Attorney".

The following definitions from the Program Standards are important to understand the roles of the team members:

- **Guardian ad Litem (GAL):** 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 if a volunteer is not available, this can be a paid staff member. A GAL is a member of a team including 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.
- **Child's Best Interest Attorney (CBI):** The attorney employed by the Program to protect a child's best interest in either 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.



- **Child Advocacy Coordinator (CAC):** The Program employee who advises, coaches, and mentors volunteer GALs, and monitors the child’s dependency case.

The Volunteer’s role is also specified in statute: Chapter 39.829, F.S.:

“Powers and duties of guardian advocate.—It is the duty of the guardian advocate to oversee the care, health, and medical treatment of the child; to advise the court regarding any change in the status of the child; and to respond to any medical crisis of the child, including providing consent to any needed medical treatment. The guardian advocate shall report to the department if the natural parents abandon the child or if the natural parents reclaim custody of the child.”

Put another way, the Guardian ad Litem team carries out the following activities:

- **Investigation:** Carries out an objective, systematic examination of the situation, including relevant history, environment, relationships, and needs of the child. The GAL interviews family, friends, neighbors and members of the child's school.
- **Facilitation:** Identifies resources and services for the child and facilitates a collaborative relationship between all parties, helping to create a situation to meet the child's needs.
- **Advocacy:** Conveys the best interests of the child to the court and relevant agencies.
- **Monitoring:** Keeps track of whether the court orders and plans of the Department of Children and Families are implemented.

Below are some of the duties required specifically of a GAL attorney to carry out the above activities. They are varied and complex and require years of experience to master. As such, retention of experienced staff is critical to the success of the program in representing the ‘child’s best interest’.

The role of the GAL attorney includes:

- Being a party to the case and representing the child's best interests to the court.
- Providing effective advocacy motion practice - the GAL attorney often files motions that advocate for the child’s best interests such as for protective orders and motions regarding child hearsay, residential treatment visitation, out-of-state placement, custody, issues related to the Keeping Children Safe Act, and administration of psychotropic medications.



- Filing motions to either require or excuse the presence of the child in review hearings based upon the child's best interest.
- Seeking to obtain protective orders for children, when releasing particular information may result in further emotional harm or trauma. Filing related motions to subpoena witnesses and be present in court to question the witnesses at the evidentiary hearing to support the need for the protective order.
- Employing effective trial advocacy skills to achieve permanency for a dependent child. The attorney uses their trial skills through the discovery process, preparing witnesses, effectively cross-examining witnesses, objecting to various evidentiary issues, preserving the record for possible appeal, and subpoenaing witnesses.
- Protecting a child's right to time limitations through the attorney's ability to file motions, an effective GAL attorney will advocate for limited continuances and permanency for the child.
- Filing objections to psychotropic medications if in the best interest of the child. At the resulting hearing, the GAL must be present to review its objection with the court.
- Ensuring crucial information about the child and/or services for the family that may affect the court's findings of compliance is considered by the court via motions, pleadings, objections, and/or testimony.
- Investigating Termination of Parental Rights (TPR) petitions and filing reports to the court. In some cases, the GAL may file a TPR petition. A GAL needs an attorney to subpoena witnesses, procure evidence, prepare witnesses for testifying, prepare legal arguments, review expert reports and perform a myriad of duties required to effectively prove a TPR petition and be successful at trial.
- Pursuing appellate review of a lower court's decision when appropriate. An attorney must be thoroughly prepared to protect the record for appellate review that requires the attorney know (1) essential elements of the issue before the trial court, (2) governing statutes, regulations, and case law under federal and state law, and (3) applicable standard of review on appeal.
- Providing legal advice to children encountering problems related to receipt of state benefits or independent living services.

The Program is currently working to move their attorney staff into a more assertive role in the judicial process. This is important since this person is the only Child's Best Interest (CBI) advocate during legal proceedings involving ***abused, abandoned and neglected children***. This requires an attorney with more experience than someone who has just graduated from law school

and passed the bar exam. This individual must have skills in case management, court rules, and advocacy, but most important, their judgment must be mature and thoughtful.

The Program continually enhances its legal advocacy to achieve better outcomes for children through on-going legal training on dependency-related topics. Training the attorneys and pro bono attorneys is a vital element in representing the best interests of children, and continuing to professionalize the GAL staff. Since 2010, the Program has provided new attorney trainings for all incoming lawyers providing the ‘must know’ basics for successful representation of a child. Attorneys across the state are also trained on termination of parental rights, human resource issues, management skills, and complex issues such as those at disposition and knowing how to protect a child witness.

#### **2.4. Relevant History of the Program**

In 1974, concerned about the alarming number of reported incidents of child abuse and neglect, the United States Congress passed the Child Abuse Prevention and Treatment Act (CAPTA) which was the first comprehensive federal legislation dealing with these issues. Among other things, CAPTA provided funds to states to appoint Guardians ad Litem to represent abused and neglected children. CAPTA supplied the impetus for the Florida Legislature to become the nation’s leader in providing GAL representation statewide. Because of the federal law and the efforts of dedicated child advocates, in 1975, the Florida Legislature passed legislation authorizing – but not requiring – courts to appoint a GAL in cases alleging child abuse.

In the late 1970’s, Florida law changed from merely authorizing the court to appoint a GAL in child abuse and neglect proceedings, to requiring them to do so. Because sufficient funding for GALs was not provided, some counties attempted to meet the need by using private attorneys, private foundations and other government agencies. In addition, there was an attempt to provide these services through the offices of Florida’s public defenders. Because of concerns with all of these models, many state and local officials continued to explore alternatives for providing GAL services, including the use of lay volunteers.

Based upon the success of these early volunteer models, representatives from around the state came to Tallahassee in 1980 to lobby the Florida Legislature for funds for a volunteer Guardian ad Litem program. That year, the Legislature provided \$200,000 to the Office of State Courts Administrator (OSCA) to develop and evaluate a pilot program using lay volunteers to serve as GALs. In doing so, Florida became the first state to use general revenue funds to develop a statewide volunteer GAL Program. The Program had been partially implemented in ten judicial circuits within the first year. The program was organized under the judicial branch, with statewide oversight of the programs delegated to OSCA. The local GAL Programs operated independently, each under the local jurisdiction of the circuit court. At the end of the first year, the programs had trained 407 volunteers, and had represented 1,026 children in abuse and neglect proceedings. An independent evaluation of this pilot project conducted in 1981 concluded the volunteer model was likely to be the most feasible, least expensive and most



effective means of providing representation to abused and neglected children. Based upon this evaluation, OSCA recommended, and the Florida Legislature funded, continued implementation of the lay volunteer model and the Legislature appropriated funds for eventual expansion of the program to the remaining judicial circuits.

By January 1990, all of Florida's judicial circuits had implemented a volunteer GAL Program, including the Orange County Bar Association's program that uses pro bono attorneys. Between 1990 and 2004, the Program experienced tremendous growth, as well as many challenges.

One of the areas in which the program evolved was with the addition of program attorneys and staff advocates. As the Department of Children and Families and parents were provided attorneys to represent them in court, it became apparent the Program also needed attorneys to assist volunteers and staff in the representation of children. The program attorneys represent the best interests, and protect the legal interests of children in all phases of court proceedings from trial through the appellate process. The increase in program attorneys has enabled the Program to participate more meaningfully in decision-making throughout the child's case.

Around the same time the program attorneys were being added to the GAL Program, there was a recognition that when a volunteer was not available, a staff advocate should be appointed to represent the best interest of the child. These staff advocates worked in conjunction with the program attorneys to advocate effectively for the child.

In May 2002, Governor Jeb Bush established a Blue Ribbon Panel on Child Protection to review the performance of the State's child protection system in Miami-Dade County, and examine the case of Rilya Wilson, who was discovered missing from state care. Following public testimony, the panel submitted its report to the Governor with recommendations for improving oversight and accountability of child welfare services within the Department of Children and Families (DCF). Among other things, the panel recommended the Florida Legislature set among its highest priorities the full funding of the Guardian ad Litem Program such that every child under supervision of DCF could have a GAL. As the Panel concluded, "if there is any program that costs the least and benefits the most, this one is it." In addition, the Panel found the Guardian ad Litem to be "an indispensable intermediary between the child and the court, between the child and DCF."

Based upon the Panel's recommendation, the Governor established a working group to recommend a plan of action for realizing the full potential of the GAL Program. In 2004, the Legislature transferred the GAL Program to the Justice Administrative Commission (JAC) and provided for the appointment of a full-time executive director to oversee the Program statewide. On January 1, 2004, the GAL Program was transferred from the state court system and a statewide office was established to oversee the 21 local GAL Programs.



### 3. FINDINGS

#### 3.1. Background

Since 2004 when the Guardian ad Litem Program was moved from the Office of the State Courts Administrator (OSCA) under the Chief Justice of the Florida Supreme Court, to the Justice Administrative Commission (JAC), the pay plan has not been revised – now, for over a decade.

#### Summary of GAL Attorney Compensation Between 2010 and 2014

June 30 of:	Total Prog Attys	Prog Atty Avg Salary	Prog Atty Annual Min Salary	Total Sr. Prog Attys	Sr. Prog Atty Avg Salary	Sr. Prog Atty Annual Min Salary	Total Supv Attys	Supv Atty Avg Salary	Supv Atty Annual Min Salary
2010	48	\$41,293	\$41,268	68.5	\$46,162	\$45,304	20	\$51,865	\$47,569
2011	51.5	\$41,276	\$41,268	64.5	\$46,049	\$45,304	20	\$50,752	\$47,569
2012	33	\$41,330	\$41,268	84.5	\$46,382	\$45,304	19	\$50,876	\$47,569
2013	43	\$41,333	\$41,268	75	\$46,275	\$45,304	20	\$49,998	\$47,569
2014	54.5	\$41,616	\$41,268	83	\$46,807	\$45,304	20	\$50,176	\$47,569

The JAC was created in 1965 and it provides administrative services on behalf of 49 judicial related entities. Currently, the JAC administratively serves 20 Offices of State Attorney, 20 Offices of Public Defender, three Offices of Capital Collateral Regional Counsel, five Offices of Criminal Conflict and Civil Regional Counsel, and the Statewide Guardian ad Litem Program. JAC services provided are primarily in the areas of accounting, budget, financial services, and human resources.

Comparing salaries for attorneys in state government is complicated because of the different pay plans and titles. According to the FY 2012-2013 State Personnel System (SPS) Annual Workforce Report completed by the Florida Department of Management Services, there are six primary state government employers:

1. State Personnel System (SPS) accounts for 62.8% of state employees, with titles including all positions in career service, Select Exempt (SES), and Senior Management Service (SMS).
2. State University System (SUS) has 26.6% of the state workforce with positions in the general faculty and other categories.
3. Justice Administration System (JAS) has 6.3% of state employees, whose titles include State Attorneys, Public Defenders, State Attorneys with paid insurance, Public Defenders with paid insurance, Capital Collateral Regional Counsel and the Justice Administration Commission.

4. State Court System (SCS) has 2% of state employees, with positions in the Courts and Courts with paid insurance categories.
5. Florida Legislature with only 1% of state employees in the Legislative Pay Plan.
6. Florida Lottery with only .3% of the state’s employees, with non-managerial and managerial title categories.

Unlike the State Personnel System (SPS), there are no positions in the JAC pay plan, which are Select Exempt Service (SES), however, there are certain positions (including all attorneys, except for those in the GAL Program) where the employees insurance is paid by the state, similar to SES positions in the SPS pay plan.

### **3.2. Comparison to Justice Administration System Attorney Positions**

Because the GAL Program pay plan is within the JAS, it makes sense first to compare salaries to other JAS attorneys – state attorneys and public defenders. While the functions are different, the job requirements are the similar.

The first significant difference when compared to attorneys in the JAS pay plan is the JAS attorneys receive almost 100% paid insurance benefits and the GAL attorneys *do not* (the state pays only a portion of insurance costs). Below data shows starting salaries are comparable, however, this does not account for the difference in insurance benefits that range from \$600 - \$1,800 per year for just health insurance (depending on the type of coverage). Findings are the same when compared to State Personnel System attorney positions (see next section). For example, SPS career service individual coverage costs annually \$60, family coverage costs \$2160, SES/SMS individual coverage is \$100.08, and family coverage costs \$360. GAL attorneys currently pay for coverage more like a SPS career service employee.

In March 2014, Florida TaxWatch published a report titled “When it Costs More to Pay Less” showing starting salaries for Assistant State Attorneys (ASAs) and Assistant Public Defenders (APDs) in Florida are among the lowest in the nation. While the report focused only on ASAs and APDs, there are some striking similarities to the issues facing the GAL Program. Note that throughout most of this section, we are comparing the starting attorney positions, Program Attorneys, as there was no data provided on Senior or Supervising Attorneys.

The report found starting annual salaries for ASAs and APDs in Florida average \$41,700, similar to the GAL Program Attorneys. Note, however, this does not account for the difference in benefits. The chart below shows more detail:

<b>Pay Plan / Program</b>	<b>Attorney Position – Average Starting Salary</b>	<b>Sr. Attorney Position – Average Salary</b>	<b>Attorney Supervisor Position – Average Salary</b>
GAL Program1	\$41,616	\$46,807	\$51,865

1 Guardian ad Litem Program Rate Report



Pay Plan / Program	Attorney Position – Average Starting Salary	Sr. Attorney Position – Average Salary	Attorney Supervisor Position – Average Salary
State Attorney 2	\$41,912	See footnote	See footnote
Public Defender 3	\$41,570	See footnote	See footnote

The report concluded:

“No matter which study or state comparison is used, the starting pay for ASAs and APDs in Florida lags by a wide margin. This pay deficiency becomes more acute when you consider that over 40 percent of ASAs and APDs in Florida (many in their 3rd or 4th year) earn less than the average starting pay around the country. In the first three years, the period when most decide whether to continue or move on, the aggregate pay shortage for ASAs and APDs in Florida ranges from \$30,000 to \$50,000. Add the typical six figure debt carried forward after college and law school, and it becomes clear why ASAs and APDs are resigning and seeking better-paying jobs.”

Since GAL Program Attorney salaries are effectively lower than those of ASAs and APDs when benefits are considered, the same conclusion reached for ASAs and APDs is reached for GAL Program Attorneys. That is, they lag other states by a wide margin. Later in this report, we discuss the issue of college debt and the fact that almost half of GAL attorneys are seeking other positions.

The TaxWatch report found the most recent turnover rate for ASAs was almost 17%, and for APDs, almost 19%. The TaxWatch report best states the cost of turnover:

“Turnover rate goals in the private sector are 3 to 5 percent, while turnover norms in the public sector are 10 to 12 percent. Studies regularly define the consequences of high turnover: loss of institutional knowledge; additional duties for those remaining; rising backlogs and reduced productivity; and high replacement costs for selection, onboarding, training and development of new employees.”

“Business analysts have attempted to determine the actual cost of staff turnover, and the estimates range from 50 percent of the annual salary to 400 percent, when the turnover is in senior leadership and highly technical positions. Using the lowest business estimate for cost of staff turnover (50 percent of salary) equates to a loss of \$25,000 every time an ASA or APD resigns.”

A review of GAL attorney turnover disclosed the following rates – significantly higher than those cited in the TaxWatch report.

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2 Florida TaxWatch, When it Costs More to Pay Less, March 2014; no data on Sr. Attorney or Attorney Supervisor Positions

3 Florida TaxWatch, When it Costs More to Pay Less, March 2014; no data on Sr. Attorney or Attorney Supervisor Positions



- Program Attorneys who left in SFY 13-14 spent 23.6 months on average on the job.
- Of the 42 Program Attorneys currently employed, the average tenure is just over 11 months.
- Turnover data for state fiscal year for Program Attorneys is as follows:
  - 30% for SFY 2013-2014
  - 30% for SFY 2012-2013
  - 27% for SFY 2011-2012
- Turnover data for Senior Attorney positions is better, but still not where it should be:
  - 12% for SFY 2013-2014
  - 18% for SFY 2012-2013
  - 16% for SFY 2011-2012
- And for Supervising Attorney positions:
  - 25% for SFY 2013-2014
  - 26% for SFY 2012-2013
  - 10% for SFY 2011-2012

If we use the TaxWatch estimate of 50% of salary, turnover in just Program Attorney positions cost an estimated \$270,504 during SFY 2013-2014 (13 separations x 50% x \$41,616). For Senior Attorneys, the amount is \$210,632 (nine separations x 50% x \$46,807), and for Supervising Attorneys, \$129,663 (five x 50% x \$51,865) – more than \$600,000.

Recruiting for attorneys is expensive and requires extensive screening and validation due to requirements such as verifying experience, education, character, Florida Bar membership, and background checks. As a state, we are obligated to be fiscally prudent and socially sensitive, but especially when dealing with our vulnerable children. The only conclusion to reach is to recruit and hire only the best and most committed public interest attorneys who will dedicate themselves to resolve these children's cases in that child's best interest.

### **3.3. Comparison to State Personnel System (SPS) Attorney Positions**

Similar to JAS attorneys, all attorney positions in the SPS receive almost 100% paid insurance benefits as they are considered Selected Exempt Service (as opposed to Career Service who only receive partially state-funded insurance benefits). Again, the GAL attorney positions are the only in the SPS and JAS pay plans, comprising almost 70% of state government employees, who *do not* receive the benefit of almost 100% paid insurance.

According to the State of Florida web site [www.myflorida.com/MyBenefits/Calculator](http://www.myflorida.com/MyBenefits/Calculator), the following are examples of the amount of annual insurance premiums a state employee making an average salary of \$50,000 must pay:

<b>Pay Plan / Coverage</b>	<b>PPO</b>	<b>Standard HMO</b>
Career Service, Individual Coverage	\$600	\$600
Career Service, Family Coverage	\$2,160	\$2,160
SES/SMS, Individual Coverage	\$100.08	\$100.08
SES/SMS, Family Coverage	\$360	\$360

Below are the current GAL attorney class titles, along with their monthly and annual minimum salary ranges. Also represented are the attorney positions from the Florida Department of Management Services (DMS), Select Exempt Service (SES), Broadband Job Classifications Crosswalk published June 2, 2014, which most closely align with the duties of the GAL Program positions.

### **GAL Attorney Classes Compared to Similar SPS Attorney Classes**

<b>GAL Class Code</b>	<b>GAL Position Title</b>	<b>GAL Monthly Minimum</b>	<b>GAL Annual Minimum</b>	<b>SPS Class Code</b>	<b>SPS Position Title</b>	<b>SPS Monthly Minimum</b>	<b>SPS Annual Minimum</b>
8700	Program Attorney	\$3,439	\$41,268	7736	Attorney	\$3,257	\$39,084
8701	Senior Program Attorney	\$3,775	\$45,304	7738	Senior Attorney	\$4,302	\$51,627
8702	Supervising Attorney	\$3,964	\$47,569	7743	Attorney Supervisor	\$5,378	\$64,534

This puts the GAL Senior Attorney level at a starting salary of **\$6,323 less per year** (14%) than a similar position in the Executive Branch, and the GAL Supervising Attorney at a **\$16,965 annual disadvantage** (36%). The only GAL position with a starting salary slightly above the similar SPS position (only \$182 per month) is at the Program Attorney level. However, even this small difference is misleading because the research completed for this study found little evidence the Executive Branch agencies start their attorneys at the minimum of the published salary range. In addition, as initially stated, GAL attorneys do not receive the benefit of almost 100% paid insurance as illustrated in the table prior to this one.

Further evidence of the compensation disparities is found in the average salaries across these positions throughout the State of Florida, as illustrated below.

### **Average Attorney Salaries Statewide**

<b>Pay Plan / Program</b>	<b>Attorney Position – Average Salary</b>	<b>Sr. Attorney Position – Average Salary</b>	<b>Attorney Supervisor Position – Average Salary</b>
GAL Program4	\$41,616	\$46,807	\$51,865

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Pay Plan / Program	Attorney Position – Average Salary	Sr. Attorney Position – Average Salary	Attorney Supervisor Position – Average Salary
Statewide 5	\$45,372	\$63,403	\$76,531

This puts the GAL Program Attorney at an actual average salary of **\$3,756 less per year** (9%) than a similar position in the Executive Branch, a GAL Senior Attorney level at **\$16,596 less per year** (35%), and the GAL Supervising Attorney at a **\$24,666 annual disadvantage** (48%).

It is difficult to imagine this disparity is the intent of the Florida Legislature, especially for attorneys who deal with our most vulnerable citizens. Rather, it appears this is a historic inequity that existed prior to the Program being placed under the Justice Administrative Commission, which has yet to be corrected.

### 3.4. Comparison to Department of Children and Families Children’s Legal Services Attorney Function

The GAL Program is responsible for the exact same children as the Florida Department of Children and Families (DCF) Children’s Legal Services attorneys (CLS) – all those involved in the dependency system. Thus, the comparison to that function is probably more appropriate than to any other attorney position because it is the exact same population and requires the same in-depth knowledge of Florida’s complex dependency system. Some of the specific duties similar to CLS attorneys are listed in section 2.3. There are, however, some differences:

- DCF CLS attorneys represent the interests of the State of Florida while GAL attorneys represent the child’s best interest.
- DCF CLS attorneys rely on the work of full-time certified child welfare case management staff, while GAL attorneys work with and advise volunteers who are trained, however, are not certified and are part-time volunteers.
- DCF CLS attorneys spend the vast majority of their time on court-related work and filings, while GAL attorneys also spend most of their time on court-related findings; they spend significant time working with, advising, and educating volunteers.

The Florida GAL volunteers save the state money. Last year alone, the 8,000 volunteers in the GAL Program saved Florida taxpayers \$8.5 million.<sup>6 7</sup> Moreover, these volunteers lead to greater success, because children with a volunteer are substantially less likely to spend time in

<sup>5</sup> Florida Has A Right to Know web site, payroll search

<sup>6</sup> FL GAL survey of volunteer hours worked per month (32,747) x value of volunteer hour (\$17.78) for one year = \$8.5 million.

<sup>7</sup> Value of volunteer hour is from “The Independent Sector”, a leadership forum of charities and foundations recognized by the U.S. Department of Labor.

long-term foster care, and cases involving a volunteer are more likely to be permanently closed than cases where no volunteer is involved.<sup>8</sup>

### 3.4.1. Salaries

The chart below shows the DCF CLS starting and current average salaries:

Authorized People First Working Title	Official Class Title	Class Code	Pay Plan	Starting Salary	Current Average
CLS Regional Director	Chief Legal Counsel	7741	SES	\$ 95,000	\$ 96,767
Managing Attorney	Attorney Supervisor	7743	SES	\$ 80,000	\$ 81,136
Senior Attorney	Senior Attorney	7738	SES	\$ 52,000	\$ 54,473
Attorney	Attorney	7736	SES	\$ 45,000	\$ 45,686

Just comparing the GAL current average salaries to DCF CLS *starting* salaries, the disparities are troubling:

- DCF Attorney at \$45,000 vs. GAL Program Attorney at \$41,616, a difference of \$3,384, or 8%
- DCF Senior Attorney at \$52,000 vs. GAL Senior Attorney at \$46,807, a difference of \$5,193, or 11%
- DCF Managing Attorney at \$80,000 vs. GAL Supervising Attorney at \$51,865, a difference of \$28,135, or 54%

Again, these differences do not account for the additional difference in paid insurance benefits.

### 3.4.2. Workload

In looking at workload, there are some differences worth noting:

- DCF CLS employs 195 attorneys who carry caseloads (36 Attorney and 159 Senior Attorney) to serve the exact same number of children as 118 GAL attorneys (43 Program Attorney and 75 Senior Attorney). Note some Supervising Attorney positions may carry caseloads in both agencies but those positions were not included for this comparison.

<sup>8</sup> National Court-Appointed Special Advocate Program Audit Report 07-04 by the U.S. Department of Justice, Office of the Inspector General Audit Division dated December 2006.

- DCF CLS employs 118 paralegal staff to assist CLS attorneys; GAL does not employ paralegals.

The American Bar Association’s Center on Children and the Law published a report in 2009 titled, “A LAWYER FOR EVERY CHILD: CLIENT-DIRECTED REPRESENTATION IN DEPENDENCY CASES.” The report contained many findings related to representation of children. Among them:

**Attorney Must Have Manageable Caseloads.** The size of an attorney’s caseload significantly affects his capacity to adequately represent his clients by limiting his ability to investigate each case, build a rapport with each child and assess each child’s needs. Many attorneys representing children have high caseloads. Due to the prevalence of this problem, the National Association of Counsel for Children recommends caseloads of no more than 100 children per attorney per year. This standard is also been acknowledged by the U.S. Department of Health and Human Services, Administration for Children and Families Children’s Bureau.

Assuming around 30,000 children are involved in the Florida dependency system on any given day, DCF CLS attorneys have a caseload of about 153 plus the support of paralegals. GAL Program attorneys would have caseloads of 250 if they moved to 100% representation with the current staffing model. With only 22,000 children currently represented, the average GAL caseload is 186 though in reality it is around 150 as many of the supervising attorney positions carry caseloads.

### **3.5. Results of Staff Interviews and Survey**

During the course of this Study, over a dozen GAL attorneys and staff were interviewed to gain perspective and confirm findings. Below are the consistent themes from these attorney interviews:

- The attorneys understand volunteers are the backbone of the GAL Program
- The privatization of the Department of Children and Families (DCF) has created a more complicated environment
  - Relationships with their DCF counterparts can be strained
- DCF CLS attorneys are the most closely aligned and have the most comparable duties to their own
- Caseloads are too high at close to 150 cases per attorney
- Law school debt is over \$100,000 even from a state school
  - Loan forgiveness for Public Interest attorneys would attract more talent
- GAL attorneys work with volunteers, while DCF attorneys work with all professionals, i.e. Social Workers, paralegals, etc.
- GAL attorneys have no support staff / paralegals
- The GAL Program is evolving:



- GAL attorneys are more proactive than in the past
- GAL attorneys are in court as much as 50% of their time, and sometimes more
- GAL Program staff, attorneys and volunteer is very much a part of case; judges look to them for final opinion after everyone else speaks
- GAL attorneys advocate for the “Best Interest” of the child
- There can now be more involvement with the child, i.e. transportation, meals, visits outside the foster home, etc.
- GAL often has to re-advertise for positions because of the difficulty to hire at the starting salary
  - People right out of law school are more willing to take starting salary
  - Attorneys who have left the Program often cite the salary as a reason
  - There have been no Cost of Living Raises (COLAs) or merit raises in years
  - Morale is impacted by the low salary, especially when their DCF counterparts make more money
  - There is no career progression; more ability for promotion would be helpful
- Committed and hard-working; these attorneys understand their mission
- Some litigation experience would be helpful, however, they also need a mix of attorneys fresh from law school
- The GAL attorneys work 50+ hours a week; calls on nights, weekends and holidays
- Other duties are involved, such as training DCF workers on the GAL Program, volunteer training, taking volunteer calls, completing CLSs, drive time in larger circuits, etc.

Some of the recommendations from this study have come from the interview themes above.

In addition, a survey of GAL attorneys (at all levels) was conducted in June 2014 and disclosed the following:

- 58% have explored deferment or forbearance on student loan(s) as a result of salary
- 20% are currently in deferment or forbearance on student loan(s) as a result of salary
- 40% have student loan payments based on a sliding scale based on salary
- 20% have payments less than \$200 per month, 18% between \$200 - \$400, 40% between \$400 - \$600, and 28% more than \$600
- 22% of respondents indicated that this was their first job out of law school
- 64% took a reduction in pay for their current position
- 43% are actively seeking another position with better pay

### **3.6. Recommendations**

The recommendations are made with one goal in mind – to attract and retain the best advocates for children. We believe the selected recommendations will do the most to retain the Program’s experienced attorneys, thereby reducing turnover and improving services for children. In



addition, some of the recommendations will build on the current efficient model, providing even more capacity to get to 100% representation.

1. Work with the Justice Administrative Commission (JAC) to re-class the GAL attorney positions so they are eligible to receive paid insurance benefits. Request additional funds necessary for the cost (currently estimated at \$200,000). This recommendation is made based on the finding that GAL attorneys are the only attorney positions in the SPS or JAS who do not receive the benefit of paid insurance. There is no evidence the positions require any less knowledge or skill than their counterparts, thus, should receive comparable benefits.
2. Request funds to increase the minimum salaries for Senior and Supervising Attorneys to get them up to the SPS minimum. Based on the findings it appears that many Program attorneys leave once they obtain their two years of experience because they can go other places and receive significant increases. Just getting the Senior and Supervising Attorney positions to the minimum (and not the average) will reduce turnover in the Program attorney position. An argument could be made to get to the DCF CLS minimums (they are higher than the SPS minimum), but this is a first step.
3. Request funds to increase the minimum salaries for Program Attorneys to get them up to the minimum salary used by the Florida Department of Children and Families for their Children's Legal Services attorneys. As noted, the DCF CLS starting salaries are almost \$4,000 higher than those of the GAL for beginning attorneys. Because the DCF CLS attorneys are those that the Program works most closely with, it makes sense to align these for the Program attorneys. This change also gets the Program attorneys close to the SPS current average for the Attorney position.
4. Consider pursuing a loan forgiveness program similar to that used for the Nursing Student Loan Forgiveness Program, see Section 1009.66, F.S. Many of the attorneys interviewed and surveyed expressed concern for the low salary in the context of their high student loan payments. As public interest attorneys, a loan forgiveness program would allow the GAL Program to attract even better candidates, which will improve the representation of these most vulnerable children, and will allow these attorneys to remain employed by the GAL, rather than seek higher paying employment due to the heavy burden of school loans.
5. Consider adding paralegal staff to the Program to assist attorneys to better manage current caseloads. The Program is confident they can recruit enough volunteers to get to 100% representation, however, there has to be enough legal support for the volunteers to be successful. Adding paralegal positions is an efficient way to allow the current attorneys to serve more clients. While the caseloads will still be too high, they will be more manageable.

