

Training for Court Visitors and Guardians ad Litem

The Uniform Guardianship Act as it Relates to Minors

Washington State Superior Courts, Court Visitors,
Guardians ad Litem and Training Providers



Department of Social and Health Services
Aging and Long-Term Support Administration

2024

This curriculum was developed from feedback and input gathered from a combination of historical resources, stakeholders, advisory members and subject matter experts listed below.

The materials and/or forms included within this publication are for use by Washington State Title 11 Court visitors and guardians ad litem, Superior Courts, and training providers as a guide. DSHS nor any contributor(s) make express or implied warranties regarding the accuracy, timeliness or reliability of statements, forms, articles, or other materials contained herein. Court visitors, guardians ad litem, legal professionals and lay persons must depend on their own legal knowledge, research and expertise when referring to or utilizing any information contained herein. Any views or conclusions expressed herein are not necessarily those of DSHS, the Superior Court, or individuals listed below. Please note that all suggestions for improvement of this handbook are highly encouraged. If you have any comments, questions, or feedback for this curriculum, please contact DSHS\ALTSA\HCS TCDU Training developer at TCDUTrngDev1@dshs.wa.gov. If you need legal advice, please seek a qualified attorney.

Please note that this training may be adapted to meet county specific procedures and requirements. Ask your trainer or local county courts for specific forms that are available, recommended or required. Each county in Washington may vary and have specific tools available to you. It is your responsibility to become familiar with these tools.

Credits

Curriculum Development

Angie Lea Regensburg, MAEd

Program Manager

Training Unit Specialty Curriculum & QA

Department of Social and Health Services

Aging and Long-Term Support Administration

Content Development

Amanda Williamson

2023-2024 Advisory Committee

Allison Lee Muller, J.D.

Administrative Office of the Courts

Amanda Williamson

Celeste E. Miller

Statewide Kinship Care Legal Aid Coordinator

King County Bar Association

Dale A. Cuilla, MHS

Guardian ad Litem, Court Visitor, Guardian

Judge Diana Kiesel

Pierce County Superior Court

Fona Sugg

Jasmine K. Alonso

Assistant Attorney General

Section Chief

Jennifer Harley

Kay King

Mary Welch

Neil Weiss

Rhiannon Williams

Stephanie Holt

Table of Contents

Module 1: Introduction to the UGA.....5

Lesson 1: Introduction to Uniform Guardianship Act as it Relates to Minors and the Roles of Court Visitors and Guardians ad Litem6

Overview6

Summary of UGA Actions Related to Minors .7

- Minor Guardianship: Basis for Appointment of Guardian7
- Limited versus Full Guardianship7
- Emergency Guardianship.....7
- Immediate Orders within a Guardianship ..8
- Standby Guardianship.....8
- Minor Conservatorship9
- Protective Arrangement for a Minor.....9
- Eligibility/Qualifications for CVs and GALs ..9

Court Visitor.....9

- What is a Court Visitor?9
- Role of Court Visitor10

Duties of Court Visitor10

- Statutory Duties of a Court Visitor.....10
- Court Ordered Duties of a Court Visitor....11

Guardian ad Litem (GAL)12

- What is a Guardian ad Litem (GAL)?12
- Role of the Guardian ad Litem12

Duties of the Guardian ad Litem.....12

- Statutory Duties of a GAL.....12
- Guardian ad Litem Court Rules.....12
- Court Ordered Duties of a GAL.....13

Checkpoint.....14

Module 2: Procedural and Ethical Considerations for GALs and Court Visitor15

Lesson 2: Procedural Considerations for GALs and Court Visitors..... 16

Overview.....16

Initiating a Minor Guardianship Action Under the UGA17

- Who May File17
- Contents of Petition17
- Required Documents.....17

Initiating an Emergency Minor Guardianship.....18

- How Initiated18
- Basis for Appointment.....18
- Duration18

Notice Requirements18

- Minor guardianship18
- Emergency guardianship20
- Role of court visitor.....20
- Hearings.....21
- Finalization of guardianship22
- Termination of guardianship22

Checkpoint.....22

Lesson 3: Protecting the Rights of Parents and Children in Minor Guardianship Proceedings..... 23

Overview.....23

Rights of Parents23

Rights of Minors24

Role of Court Visitor and GAL.....24

- Explain Legal Papers and Correspondence .4
- Confirmation of Parent Consent24
- Ascertaining the Minor’s Wishes/Position .24

Checkpoint.....25

Lesson 4: Ethical Considerations for GALs and Court Visitors 26

Overview.....26

Statutory Requirements.....26

Court Rules.....27

- State.....27

17 Details of Etiquette for Guardian ad litem27

- Local.....29

Diversity and Equality30

Implicit Bias30

Racial Bias, Racial Blindness, and Systemic Racism30

- Racial Bias.....30
- Racial Blindness30
- Systemic Racism30

| | |
|--|----|
| LGBTQ+ Considerations and Definitions . . . | 31 |
| Ally | 31 |
| SOGIE | 31 |
| LGBTQ+ | 32 |
| Statistics for LGBTQ+ youth | 32 |
| Developmental and Cognitive Disabilities . . . | 33 |
| Cultural Considerations | 33 |
| Culture – Definition and Impact | 33 |
| Cultural Competence | 33 |
| Checkpoint | 34 |
| Module 3: Guardian Ad Litem Investigations in Minor Guardians Proceedings | 35 |
| Lesson 5: Basics of a GAL Investigation and Report | 36 |
| Overview | 36 |
| Intake and Interviews | 36 |
| Introductory Step | 36 |
| Intake | 37 |
| Interviews | 37 |
| Home Visits and Parent/Child Observations | 38 |
| Collecting Documents and Records | 39 |
| GAL Report | 40 |
| Tips for Successful Court Report Writing . . . | 41 |
| Checkpoint | 42 |
| Lesson 6: Complex Concerns in GAL Investigations | 43 |
| Overview | 43 |
| Substance Use | 43 |
| Mental Health | 44 |
| Youth Mental Health | 44 |
| Investigating Mental Health Concerns . . . | 44 |

| | |
|---|----|
| Guideline for Assessing Claims of Mental Health Disorder or Substance Use Disorder | 45 |
| Questions to Ask about Parents – Ideally Parent’s Treatment Provider | 45 |
| Questions to Ask about Impact of Parent Mental Disorder or Substance Use on Children | 47 |
| Domestic Violence | 48 |
| Abuse and Neglect | 54 |
| Neglect | 54 |
| Physical and Sexual Abuse | 54 |
| Childhood Trauma | 54 |
| Types of Trauma | 54 |
| Emotional and Behavioral Responses to Trauma | 55 |
| Adverse Childhood Experiences | 55 |
| Child Development | 55 |
| Child Development Stages | 55 |
| Checkpoint | 60 |
| Checkpoint Answers | 61 |
| References | 62 |



Module 1: Introduction to the UGA



Lesson 1: Introduction to Uniform Guardianship Act as it Relates to Minors and the Roles of Court Visitors and Guardians ad Litem.

Learning Objective: The learner will identify UGA actions related to minors and compare the roles and duties of court visitors and guardians ad litem.

Overview

The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA) – RCW 11.130 – was designed to protect the rights and needs of individuals with incapacities, while also ensuring the liberty and autonomy of those individuals is restricted only to the extent necessary to adequately provide for their health and safety, or adequately manage their financial affairs.¹

Minors are individuals covered by the UGA. The law presumes minors do not have legal capacity. Specifically, the UGA governs the care and custody of minors whose parents cannot adequately meet their needs or are otherwise unable to perform parenting functions.

Under the UGA, a minor may be the subject of a full guardianship, a limited guardianship, an emergency guardianship, a conservatorship, or protective arrangement.

To ensure that a minor's rights and interests are protected within these legal processes, and that procedural safeguards have been complied with, the court may (or must, in certain circumstances) appoint a court visitor or guardian ad litem.

¹RCW 11.130.001

Summary of UGA Actions Related to Minors

Minor Guardianship: Basis for Appointment of Guardian

The court appoints a guardian for a minor only if the court finds that the appointment is in the child's best interest, AND one of the following conditions exist:

- Each parent of the minor, after being fully informed of the nature and consequences of the guardianship, consents to the guardianship.
- All parental rights have been terminated.
- There is clear and convincing evidence that no parent of the minor is willing or able to exercise parenting functions.²

Limited versus Full Guardianship

Assuming there is a basis for guardianship, the petitioner may request either a full guardianship or a limited guardianship. Herein, these guardianships will be referred to as "regular guardianships" or a "regular minor guardianship action."

Full guardianship: A full guardianship grants the guardian all powers available under RCW 11.130.³ In a full guardianship, a parent has no decision-making rights or visitation with the child. An example of when a full guardianship would be granted would be a scenario in which both parents were deceased.

Limited guardianship: A limited guardianship is a guardianship that grants the guardian less than all the powers available under RCW 11.130.⁴ An example of a limited guardianship would be a guardianship in which the guardian is granted primary care and custody of the child, but a parent retains decision making rights, or the parent has visitation with a child.

Emergency Guardianship

The court may appoint an emergency guardian, prior to the culmination of a regular minor guardianship action, if the court finds:



- The appointment of the emergency guardian is likely to prevent substantial harm to the minor's health, safety, or welfare; AND
- No other person appears to have authority, ability, and the willingness to act to prevent substantial harm to the minor's health, safety, or welfare.

An emergency guardianship can be initiated on its own (by way of a petition), or within a regular minor guardianship action (by way of a motion). If an emergency guardianship is initiated on its own, it may be consolidated with a later filed regular guardianship action. An example of a case in which an emergency guardianship would be appropriate without a regular guardianship action would be a situation in which a parent will be absent for a period of 60 days and cannot care for a child, but will return after the 60-day period and resume care of the child.

An emergency guardianship is limited in duration to 60 days and may be extended once for not more than 60 days; however, the court has the authority to extend an emergency guardianship pending the finalization of a regular minor guardianship action.⁵ An emergency guardianship order is the only "temporary" order that specifically addresses the physical custody of the child within a minor guardianship action. It is often used by the court to address a parent's residential time while the regular guardianship action is pending (assuming there is a basis for emergency guardianship).

²RCW 11.130.185 • ³RCW 11.130.010(10) • ⁴RCW 11.130.101(18) • ⁵RCW 11.130.225(7)

An emergency guardianship order will address limitations on a guardian's authority, to include the extent to which a guardian and parent are able to participate in decision-making related to the child, or access records related to the child. It will also address a parent's visitation. Often a guardian ad litem or court visitor is appointed through an emergency guardianship order (if the emergency guardianship is part of or has been consolidated with a regular guardianship action).

Immediate Orders within a Guardianship

Immediate emergency guardianship orders are available to parties on an ex parte basis.

Immediate orders can be entered without notice to the parents only if the court finds, "from an affidavit or testimony that the minor's health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held."⁶ A motion for an immediate order may include a request for a regular emergency guardianship order and a restraining order.

A motion for an immediate order and the corresponding immediate order are comparable to a motion for an ex parte restraining order and immediate restraining order within a family law action.

Should the court grant an immediate emergency guardianship on an ex parte basis, the petitioner must provide notice to the minor (if unrepresented and over the age of twelve) and the parents, not later than 48 hours after the appointment, the court must hold a hearing on the appropriateness of the appointment of the emergency guardian not later than five days after the entry of the order. Local court rules will govern the setting of these hearings. It is possible that a court may appoint a CV or GAL at this point in the process, although it is uncommon.



Standby Guardianship⁷

The court may appoint a standby guardian, who would assume all duties and powers of a guardian of a minor when no parent of the minor is willing or able to exercise the duties and powers granted to the guardian.

A standby guardian would be appointed when, for example, a parent has an illness that may cause debilitation or death within two years and the parent would like to arrange for a guardian to be ready when they are no longer able to parent.

A parent of the minor, in a signed record, may nominate a person to be appointed by the court as standby guardian, and may state desired limitations on the powers granted to the standby guardian.

A petition for standby guardian contains all the same information as a minor guardianship petition and has similar but less burdensome notice requirements.

⁶RCW 11.130.225(4) • ⁷RCW 11.130.220

Minor Conservatorship

The court may appoint a conservator for the property and financial affairs of a minor if the court finds, by a preponderance of the evidence, that the appointment of a conservator is in the minor's best interest; AND one of following are true:

- The minor owns funds or property requiring management or protection that otherwise cannot be provided.
- The minor has or may have financial affairs that may be put at unreasonable risk due to the minor's age.
- Appointment is necessary or desirable to obtain or provide funds or other property needed for the support and care of a minor.

Protective Arrangement for a Minor

A protective arrangement something that can be is ordered as a less restrictive alternative to a conservatorship when the minor otherwise could qualify for conservatorship.

Prior to issuing an order for a protective arrangement, the court must consider the best interest of the minor, the preference of the parents of the minor, and the preference of the minor, if the minor is twelve years of age or older.

Eligibility/Qualifications for CVs and GALs

The Superior Court for each county develops and maintains a registry of individuals qualified to be guardian ad litem and court visitors in minor guardianships and minor conservatorships.

To be eligible for a registry, an individual shall:

- Present a written statement outlining background and qualifications to include the individual's:
 - Level of formal education.
 - Training relevant to GAL or CV duties.
 - Number of years of experience as GAL or CV.

- Number of appointments as GAL or CV.
 - Criminal history.
 - Knowledge, training, and experience in meeting the needs of children, physical disabilities, mental illness, development disabilities, etc.
- Complete the training.

Note: Each Superior Court may have separate requirements for eligibility in addition to the requirements listed above. Please see your court's local rules for more information.

Court Visitor

What is a Court Visitor?

A court visitor (CV) is an individual appointed by the court under RCW 11.130⁸. A CV in a minor guardianship serves a procedural role under the UGA, ensuring that the court has sufficient information to determine that statutory procedures were followed, that the rights of the minor are adequately protected, and that the minor is advised of his or her rights within the guardianship action. The CV does not make recommendations or representations to the court regarding what is in a minor's best interest; the CV does, however, inform the court of the minor's views and position in relation to the guardianship.



⁸RCW 11.130.010(7)

Role of Court Visitor

A CV may be appointed within a minor guardianship action, a minor conservatorship, or a protective arrangement involving a minor. A CV serves a limited purpose within a minor guardianship action and is often discharged by the court once that limited purpose is fulfilled.

A CV must be appointed within a minor guardianship action in the following circumstances⁹:

- When a parent of a minor is unable to be served the guardianship petition.
- A petitioner alleges that a parent of a minor has waived, in a record, the right to notice of the petition (this most often involves a situation in which the parent has allegedly consented to the guardianship).
- In all cases in which the minor is twelve years of age or older and unrepresented.

A CV may be appointed in a minor conservatorship proceeding for the following reasons:

- To investigate a matter related to the petition (the court would likely provide further guidance on this in the Order of Appointment).
- To inform the minor OR a parent of the minor about the petition or a related matter.

Like the conservatorship, the appointment of a CV in a proceeding for a protective arrangement is in the discretion of the court and is appointed to investigate a matter related to the petition or inform the minor/parent of minor about the petition or a related matter.

Duties of Court Visitor

Statutory Duties of a Court Visitor

When appointed within a minor guardianship action, the CV has the following statutory duties¹⁰:

- The CV must interview the petitioner and the minor.
- In meeting with the minor, the CV must:
 - Explain the rights retained by the minor within a minor guardianship proceeding.
 - Ascertain the minor's views or position regarding the guardianship.
 - Determine whether the minor wishes the court to reconsider any prior order that limits what information is served upon the minor.
- The CV shall file a report with the court regarding the minor's views and positions.
- The CV shall inform the court of the minor's requests in relation to what information should be served to the minor.
- In circumstances in which the petitioner alleges the parent cannot be located, the CV shall ascertain whether the parent cannot be located with due diligence.
- Investigate any other matter relating to the petition the court directs.
- Ascertain whether the parent consents to the guardian for the minor.



⁹RCW 11.130.195(4) • ¹⁰RCW 11.130.195(4)

When appointed in a minor conservatorship, the CV's statutory duties are to investigate a matter related to the petition (which would likely be clarified in the Order of Appointment), and to inform the minor and/or a parent of the minor about the petition or a related matter (which would also likely be clarified in the Order of Appointment).¹¹ When appointed, the court visitor shall, within five days of receipt of notice of appointment, file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under RCW 11.130.080 with a statement including: his or her training relating to the duties as a court visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the court visitor has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest.

When appointed in a protective arrangement for a minor, the CV's statutory duties are the same as the duties for a minor conservatorship, except that the CV in a protective arrangement also provides a report to the court and to the parties entitled to notice, at least 15 days prior to the hearing on the petition for the protective arrangement.

The report must include:

- A summary of the minor's ability to manage his/her self-care, independent living tasks, and finances.
- A recommendation regarding the appropriateness of the protective arrangement and whether a less restrictive alternative for meeting the minor's needs is available.
- A statement about whether the minor can participate in the hearing.
- Any other matter the court directs.¹²

Note: These duties are different than the duties of a CV in the minor conservatorship (no report is required within a minor conservatorship). Additionally, this is the only portion of the UGA that specifically obligates a CV for a minor to make recommendations to the court.

Note: Given the law presumes that a minor does not have the legal capacity to manage his/her finances, it is unlikely that a CV report would need to address all the issues enumerated above.

Court Ordered Duties of a Court Visitor

When the court appoints a CV, a corresponding Order Appointing CV¹³ is entered by the court. The order will outline the CV's duties, deadlines for the filing of reports, the CV's fees, the CV's access to records, and the rules of confidentiality that govern the CV.

The CV should be aware of the following duties that are outlined in the Order Appointing CV:

- The CV must go to all hearings and pretrial conferences for the case that are related to the children unless the court says otherwise.
- The CV shall investigate and file a report on any issues outlined in the order (which will be consistent with the statutory duties).
- The CV must file a report that includes facts about the issues outlined in the Order of Appointment. The report must be filed and served on all parties at least 10 days prior to any hearing requiring a report, unless the court extends the deadline.

¹¹RCW 130.380(1) • ¹²RCW 11.130.605(7) • ¹³GDN M409

Guardian ad Litem

What is a Guardian ad Litem?

A guardian ad litem (GAL), within the context of a minor guardianship, is a person appointed to inform the court about, or to represent, the needs and best interests of a minor.¹⁴

More generally, a GAL is a person appointed for an individual if the court determines the individual's interest otherwise would not be adequately represented.¹⁵

Role of the Guardian ad Litem

A GAL may be appointed within a minor guardianship action, a minor conservatorship, or a protective arrangement involving a minor.



The role of the GAL within a minor guardianship action is broader than the role of a CV. While the GAL, like a CV, may inform the court about the children's preference, the GAL's primary concern is informing the court about, and representing, the child's needs and best interests (which may differ from the child's preference or position). A GAL is expected to perform an investigation and

prepare a written report to ensure that the child's needs and best interests are adequately addressed within the minor guardianship proceeding. The extent of that investigation and report is governed by the Order Appointing GAL, and the local rules and practices of the jurisdiction that the GAL practices in. The role of a GAL in a minor guardianship is similar to the role of a GAL in a Title 26 Family Law action. A court may ask that a GAL make recommendations as part of the report (depending on local practices). For specific direction, please review your Order Appointing GAL/CV.

A GAL will often remain active in a case until finalization, unlike a CV who is discharged after they fulfill their limited duties.

Duties of the Guardian ad Litem

Statutory Duties of a GAL

The UGA does not outline the specific duties of the GAL in a minor guardianship proceeding. The GAL's duties are primarily dictated by the court and the Order of Appointment.

Guardian ad Litem Court Rules

Consistent with Title 11, 13 and 26, the Supreme Court has created rules that govern a GAL's actions https://www.courts.wa.gov/court_rules/pdf/GALR/SUP_GALR_02_00_00.pdf (wa.gov). To ensure GALs are aware of their duties and responsibilities, these expectations are also stated in the Order Appointing GAL.

Court Ordered Duties of a GAL

¹⁴RCW 11.130.010(12) • ¹⁵RCW 11.130.075 • ¹⁶GDN M409



When the court appoints a GAL, a corresponding Order Appointing GAL¹⁶ is entered by the Court. The order will outline the GAL's duties, deadlines for the filing of reports, the GAL's fees, the GAL's access to records, and the rules of confidentiality that govern the GAL. The GAL should be aware of the following duties that are outlined in the Order Appointing GAL:

- The GAL shall inform the court about, and represent, the needs and best interests of the child (minor).
- The GAL shall protect the legal interests of the children (minor) in the case.
- The GAL shall explain the legal papers and correspondence related to the case to the child (minor).
- The GAL shall participate in court hearings related to the GAL's duties through written reports and supplemental oral reports. (Note: Some jurisdictions may consider the GAL a "party" to a case, and consequently the GAL may be required to attend all hearings in a case. A GAL should inform themselves of local rules and procedures for the jurisdictions in which they practice).
- The GAL shall follow all court orders and go to all meetings and court hearings related to the GAL's

duties or scope of appointment.

- The GAL shall investigate and file a report on any issues outlined in the Order. This will often include specific issues that the court wants the GAL to address. (Examples of issues that a GAL may be asked to investigate are substance use issues of the parents, physical abuse on the part of the parents against the child (minor), or neglect of parenting duties).
- The GAL must file a report that includes facts about the issues outlined in the Order of Appointment. The report must be filed and served on all parties at least 10 days prior to any hearing requiring a report, unless the court extends the deadline.

Checkpoint

Read each question or statement and select the best answer from the options available. Check your answers on page 61.

1. **The court appoints a guardian for a minor only if the court finds that the appointment is in the child's best interest, AND one of the following conditions exist:**
 - a. Each parent of the minor, after being fully informed of the nature and consequences of the guardianship, consents to the guardianship.
 - b. All parental rights have been terminated.
 - c. There is clear and convincing evidence that no parent of the minor is willing or able to exercise parenting functions.
 - d. All answers are correct.
2. **What type of guardianship grants the guardian all powers available under RCW 11.130, leaving the parent with no decision-making rights or visitation with the child?**
 - a. Emergency guardianship
 - b. Limited guardianship
 - c. Full guardianship
 - d. All answers are correct
3. **An Emergency Guardianship is limited in duration to sixty days and may be extended once for not more than 60 days; however, the court has the authority to extend an emergency guardianship pending the finalization of a regular minor guardianship action.**
 - a. True
 - b. False
4. **Who might the Court appoint for the property and financial affairs of a minor if the court finds by a preponderance of the evidence that it is in the minor's best interest AND one of the following is true: The minor owns funds or property requiring management or protection that otherwise cannot be provided; the minor has or may have financial affairs that may be put at unreasonable risk due to the minor's age; or appointment is necessary or desirable to obtain or provide funds or other property needed for the support and care of a minor.**
 - a. Standby guardian
 - b. Immediate guardian
 - c. Minor conservator
 - d. All answers are correct
5. **Washington state develops and maintains a registry of individuals qualified to be guardians ad litem and court visitors in minor guardianships and minor conservatorships.**
 - a. True
 - b. False
6. **From the list of duties below, which does NOT represent a duty of a GAL?**
 - a. Interview the petitioner and the minor.
 - b. File a report with the court.
 - c. Discharge after they fulfill their limited duties.
 - d. All answers are correct.
7. **From the list of duties below, which does NOT represent a duty of a CV?**
 - a. Inform the court about and represent the needs and best interest of the minor.
 - b. Go to all hearings and pretrial conferences for the case that are related to the children unless the court says otherwise.
 - c. Investigate and file a report at least 10 days prior to any hearing on any issues outlined in the order.
 - d. All answers are correct.



Module 2: Procedural and Ethical Considerations for GALs and Court Visitors



Lesson 2: Procedural Considerations for GALs and Court Visitors

Learning Objective: The learner will describe the difference between actions for initiating a minor guardianship and emergency minor guardianship and summarize notice requirements.

Overview

A guardian ad litem and/or court visitor should understand and be familiar with the procedural requirements of the UGA.

A CV assists the court in ensuring notice requirements are met. Both a CV and GAL shall ensure that the minor's rights are understood by the minor and protected within the guardianship process. A CV and GAL may have to review and explain court forms and procedures to parents and/or minors.

GALs and CVs should be mindful of ethical guidelines and considerations when working with individuals in minor guardianship proceedings. As professionals, GALs and CVs must be cognizant of how their conduct is perceived by the parties within the proceedings and should always strive to act in a manner that avoids bias, cultural incompetence or discriminatory treatment.

Initiating a Minor Guardianship Action Under the UGA

Who May File

- *Any person* interested in the welfare of a minor, including the minor, may file a Petition for Minor Guardianship.
- The petitioner does not need to be related to the minor.
- The petitioner does not have to be the proposed guardian.¹⁷

Contents of Petition

The petition must include the following¹⁸:

- The petitioner's name and address (principal and current).
- The petitioner's relationship to the minor.
- The petitioner's interest in the appointment of a guardian.
- The name and address of any attorney that represents the petitioner.

The petition must include the following, to the extent known:

- The minor's name, age, principal residence, current address, and address of the residence where minor will reside if guardian is appointed.
- The names and addresses of the minor's parents.
- The names and addresses of each person who had primary care or custody of the minor.
 - For at least sixty days during the two-year period preceding the filing of the petition; or
 - For at least seven hundred thirty days during the five-year period preceding the filing of the petition.

- The name and address of any attorney for the minor and any attorney for the parents.
- The legal basis for the guardianship (factual reasons why the guardianship is in the best interest of the minor shall be set out in a separate supplemental declaration).
- The name and address of the proposed guardian and the reason the proposed guardian should be selected.
- A general statement about the minor's property and an estimate of value (if applicable).
- Whether the minor or either parent needs an interpreter or other support to communicate with the court and understand court proceedings.
- Whether there are any pending court proceedings involving the minor.

Required Documents

Along with the Petition for Minor Guardianship, the petitioner must also file the following documents:

- Summons (GDN M 001)
- Notice of Hearing (GDN M 101)
- Supplemental Declaration (GDN M 103)
- Other important documents that are required but may not be pertinent to your role as CV or GAL: Disclosure of Bankruptcy or Criminal History; Motion and Order for DCYF to Release Information; Washington State Patrol Criminal History; Confidential Information Form.
- Pattern forms: <https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=139>

¹⁷RCW 11.130.190(1) • ¹⁸RCW 11.130.190(2)



Initiating an Emergency Minor Guardianship

How Initiated

- The court may appoint an emergency guardian on its own motion.
- A motion may be filed within an already pending minor guardianship proceeding (by any party).
- A separate Petition for Emergency Guardianship may be filed.

Basis for Appointment

The court may appoint an emergency guardian for a minor if the court finds:

- The appointment of an emergency guardian is likely to prevent substantial harm to the minor's health, safety and welfare; AND
- No other person appears to have authority, ability, and the willingness to act to prevent substantial harm to the minor's health, safety or welfare.

Note: This means that if a parent appears and is willing and able to prevent substantial harm to the minor's health, safety or welfare, there is no basis for emergency guardianship.

Duration

- An emergency guardianship may not exceed 60 days.
- The court may extend the emergency guardianship once (for another 60 days), provided the bases for guardianship continue.
- Notwithstanding the above, the court may extend an emergency guardianship order until a final guardianship order is entered. The court often utilizes this provision to extend emergency order beyond the 60- or 120-day limitations set forth above. When this occurs, the "emergency" guardianship order becomes similar to a Temporary Family Law order within a divorce or parenting plan proceeding, in that it governs the parties while the action is pending finalization.

Notice Requirements

Minor guardianship

Personal service

If a minor guardianship is filed, the petitioner shall personally serve notice of the date, time and place of the hearing, along with the Petition and Supplemental Declaration, on each of the following individuals:

- The minor if the minor is twelve years of age or older.



Note: The court may, upon a showing of good cause, order that information concerning the reasons for guardianship, the supplemental declaration, and all subsequently filed pleadings, not be served upon the minor if the minor is unrepresented. A CV or GAL may request such an order, however, if the initial service of the pleadings generally occurs prior to the appointment of a CV or GAL. If a GAL/CV is making this request, it is generally in relation to pleadings filed after the service of the initial documents.

- Each parent of the minor or, if there is none, the adult nearest in kinship who can be found with reasonable diligence.
- Any guardian or custodian of the minor appointed under RCW 26.10 (this is the former Non-Parental Custody statute, which was replaced by the UGA).
- Any other person the court determines should receive personal service.

Personal service is a form of actual notice in which the documents are personally delivered to the person required to be served. Sending the documents via mail, or emailing the documents, does not constitute personal service.

The individual delivering the documents for purposes of effecting service cannot be a party to the case. This means that the petitioner within a guardianship proceeding, cannot be the person to hand-deliver the documents to the parents or minor. The petitioner must have another individual effectuate personal service.

Notice by other means

A petitioner is required to give notice, but not personally serve, the following individuals:

- Any adult with primary care and custody of the minor who is not a parent, guardian or custodian.
- Each person that had primary care or custody of the minor:
 - For at least sixty days during the two-year period preceding the filing of the petition; or
 - For at least seven hundred thirty days during the five-year period preceding the filing of the petition.



- Any person nominated as guardian by the minor, if the minor is twelve years of age or older.
- Any person nominated as guardian by the parent.
- Each grandparent and adult sibling of the minor (if known).
- Any conservator acting for the minor.
- Any other person the court determines.

Notice given to the above individuals must be given by mail or other *action reasonably calculated* to give notice.

The court may waive notice to the above individuals for good cause.

Additional notice requirements

Notice to parents, minors, and custodians must include the following:

- A statement of the right to request appointment of an attorney for the minor.
- A statement of the right to object to the appointment of a guardian.
- A description of the nature, purposes and consequences of guardianship.
- Notice to the minors must also include:
 - A statement of all rights retained by the minor.
 - A statement about whether the court has entered an order limiting information served upon the minor and explaining that the minor may ask the court to reconsider said order at any time.
 - Information on how to respond to the petition.

Emergency guardianship

Reasonable notice

An emergency guardianship, whether filed by way of a petition or motion, does not require personal service; rather, the petitioning/moving party is only required to give reasonable notice of the date, time and place of hearing for the appointment of an emergency guardian to the following individuals:

- The minor if the minor is twelve years of age or older.
- Any attorney appointed under a Minor Guardianship action.
- Any person, other than the parent having care or custody of the child.
- Any other person the court determines.
- The statute does not define what reasonable notice means.



Immediate emergency guardianship

The Court may appoint an emergency guardian for a minor without notice and without a scheduled hearing, only if the court finds from an affidavit or testimony, that the minor's health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held.

If a court appoints an emergency guardian without notice to the minor, then notice must be given to all the individuals that require reasonable notice (as set forth above), within 48 hours of appointment. The court must also hold a hearing on the appropriateness of the appointment, not later than five days after the appointment.

Role of court visitor

Unable to serve notice on parent

- If a petitioner is unable to serve notice on a parent of a minor the court **MUST** appoint a CV.
- The inability to locate and serve a parent is common in a minor guardianship case, and one of the primary reasons a CV is appointed.
- If a CV is appointed for this purpose, the CV must ascertain whether the parent can be located with due diligence.
- To determine if a parent can be located, the CV should:
 - Interview the petitioner, proposed guardian and child to gather information about each parent's whereabouts or last known address.
 - Attempt to call the parent utilizing telephone numbers provided by the court and petitioners.
 - Perform a JIS search to determine what if any court proceedings the parents were involved in recently.
 - Perform a simple Google search to see if Google returns any results with the parent's contact information.

After conducting an investigation into the parent's whereabouts, the CV shall prepare a written report outlining his/her efforts to locate the parent. The report should include the CV's opinion on whether the parent can be located with due diligence. The CV does not need to make a recommendation or provide an opinion as to what should occur next regarding notice to the parents.

Parent waives notice or consent

- If a petitioner claims a parent has waived the right to notice, the court **MUST** appoint a CV.
- In these situations, the petitioner usually files a consent to guardianship executed by the parents or informs the court that a parent consents to the guardianship.
- In these situations, the CV should meet with the parent, and determine if the parent in fact consents to the guardianship and/or waives notice of the guardianship.
- If the parent has executed a consent, the CV should confirm with the parent that parent voluntarily consented.

Hearings

There are various hearings within a minor guardianship action, and a GAL and/or CV may be required to attend some or all the hearings while an action is pending.



Initial hearings

Regular Minor Guardianship: When the Petition for Minor Guardianship is filed, a Notice of Hearing is simultaneously filed. At this initial hearing on the petition the court will generally make a determination as to whether it is necessary to appoint an attorney for the parents and/or minor, and whether it is necessary to appoint a CV or GAL. Minor guardianships are seldom finalized at the initial hearing due to issues with personal service, the potential objection of the parents or the need for appointments of the above-referenced professionals.

Emergency Guardianship: Once reasonable notice of an emergency guardianship has been provided to the required individuals, an emergency guardianship hearing may go forward, and the Emergency Guardianship Order may be entered, at the initial hearing set by the notice, even if the parents object. Sometimes the court will appoint a GAL in an emergency guardianship proceeding, before holding a substantive hearing on whether an emergency guardian should be appointed. If the emergency guardianship is filed by way of a motion, a GAL and CV may already be involved in the action, and the court may ask the GAL to weigh on the issues contained in the motion. Hearings set by motions are governed by local court rules.

Immediate Emergency Guardianship: A motion for immediate emergency guardianship may be heard without notice, on an ex parte calendar. These hearings are generally brief in nature. Ex parte procedures are governed by local court rules. If an immediate order appointing a guardian is entered, the court must set a return hearing on the underlying motion within five days of the appointment. If a CV or GAL was already appointed in a minor guardianship action, then they would likely participate in the five-day hearing.

Status/review hearings

While a minor guardianship action is pending, the court may hold various hearings to review the status of the case, hear reports from CVs and/or GALs, and address other motions filed by the parties. These hearings may be set administratively by the court or may be initiated by way of noting a motion.

Trial: If a minor guardianship action is not resolved by agreement, and neither parent is in default, then the court will eventually hold a trial. At a trial, the court will hear evidence from witnesses, review exhibits, and hear arguments of counsel. A GAL is generally required to be present at a trial (some jurisdictions may not require this – check your local court rules). A GAL report may be admitted as an exhibit at a trial, and a GAL may have to testify as a witness at trial. Some jurisdictions treat GALs as parties to the case. In those situations, a GAL may be permitted to ask questions of witnesses or submit exhibits.



Finalization of guardianship

A guardianship is finalized upon the entry of a Minor Guardianship Findings and Order (GDN 105). A GAL is often discharged upon entry of the final guardianship order (sometimes the court discharges the GAL prior to the entry of the final guardianship, upon completion of a GAL report).

Termination of guardianship

Guardianship for a minor terminates:

- Upon the minor's death, adoption, emancipation or attainment of the age of majority; or
- When the court finds that the basis for the appointment of the guardian no longer exists, UNLESS the court finds:
 - The termination would be harmful to the minor; AND
 - A minor's interest in the continuation of the guardianship outweighs the interest of any parent of the minor in the restoration of the parent's right to make decisions about the minor.

Checkpoint

Read each question or statement and select the best answer from the options available. Check your answers on page 61.

1. When initiating a minor guardianship action under UGA, the petitioner must be related to the minor a proposed guardian.
 - a. True
 - b. False
2. The court may appoint an emergency guardian for a minor if:
 - a. The parent appears and is able to prevent substantial harm to the minor's health, safety or welfare.
 - b. The court finds the appointment of an emergency guardianship is likely to prevent substantial harm to the minor's health, safety and welfare AND no other person appears to have authority, ability and the willingness to act to prevent substantial harm to the minor's health, safety or welfare.
 - c. A guardianship is already established.
 - d. All answers are correct.
3. An emergency guardianship requires personal service.
 - a. True
 - b. False (does not require personal service, rather only required to give reasonable notice of date, time and place of hearing)
4. If a petitioner is unable to serve notice on a parent of a minor, the court MUST appoint a court visitor.
 - a. True
 - b. False
5. Which hearing(s) may be required for a GAL and/or CV within a minor guardianship to attend.
 - a. Minor guardianship
 - b. Emergency guardianship
 - c. Immediate emergency guardianship
 - d. All answers are correct
6. A guardianship is finalized upon the entry of a Minor Guardianship Findings and Order (GDN 105).
 - a. True
 - b. False



Lesson 3: Protecting the Rights of Parents and Children in Minor Guardianship Proceedings

Learning Objective: The learner will identify the rights of a parent and a minor and recognize the role of a court visitor and GAL to protect the rights of parents and children in minor guardianship proceedings.

Overview

Parents and minors who are twelve years or older have rights in minor guardianship proceedings. Under the law, a parent is presumed the appropriate custodian for a child, so the court will only appoint a guardian under specific conditions.

CVs and GALs are responsible for explaining legal papers and correspondence, confirming parental consent and understanding the minor's wishes or position.

Rights of Parents

A parent has a Constitutional right to raise their own child(ren). The law presumes that a parent is the appropriate custodian for a child. Thus, the court may only appoint a guardian for a minor if:

The court finds the appointment is in the minor's best interest, AND one of the following is true:

- Each parent of the minor, after being fully informed of the nature and consequences of the guardianship, consents.
- All parental rights have been terminated.
- There is clear and convincing evidence that no parent of the minor is willing and able to exercise parenting functions.

A parent has the following rights within a guardianship proceeding:

- The right to notice as already outlined in this training.
- The right to object to guardianship.
- The right to attend hearings.
- The right to counsel if the parent has appeared in the proceeding, is indigent and any of the following are true:
 - The parent objects to the appointment of a guardian for the minor.
 - The court determines that counsel is needed so that a parent's consent to guardianship is informed.
 - The court otherwise determines the parent needs representation.

Note: The court has discretion to appoint counsel for a parent who is not indigent.



Rights of Minors

A minor twelve years of age or older has the following rights within a guardianship proceeding:

- The right to notice as already outlined in this training.
- The right to object to guardianship.
- Limited right to counsel. The court may appoint an attorney for a minor if:
 - Requested by the minor.

- Recommended by the GAL.
- The court determines the minor needs representation.
- To participate in hearings, unless the court determines that:
 - The minor lacks the ability or maturity to participate meaningfully in hearing.
 - Attendance would be harmful to the minor.
- The right to communicate the minor's position on the guardianship to the court.
- The right to request revision of a limiting order (a limiting order limits the amount of information the minor receives about the proceedings – generally the reasons for the guardianship).

Role of Court Visitor and GAL

Explain Legal Papers and Correspondence

The CV should meet with the minor and explain the rights outlined in the Notice of Hearing.

The GAL should meet with the minor and explain any pleadings and correspondence related to the case.

Confirmation of Parent Consent

The CV, if appointed for this purpose, shall meet with the parent and ensure the parent has received and understands the pleadings and review the consent with the parent to ensure the parent fully understands the consequences of the consent.

Ascertaining the Minor's Wishes/Position

The CV should meet with the minor to determine the minor's position on the guardianship. The CV should convey that position to the court through a written report. The CV should also determine the minor's position on receiving pleadings in the case.

The GAL should meet with the minor and report on the minor's position and preferences, but the GAL's recommendations as to what is in the minor's best interest may not align with the minor's position.

Checkpoint

Read each question or statement and select the best answer from the options available. Check your answers on page 61.

- 1. Identify which right(s) below are rights of a parent within a guardianship proceeding:**
 - a. Right to object to guardianship.
 - b. Right to attend hearings.
 - c. Right to counsel under certain circumstances.
 - d. All answers are correct.

- 2. Identify which right(s) below are rights of a minor twelve years of age or older within a guardianship proceeding.**
 - a. Right to object to guardianship.
 - b. Right to attend hearings unless the court determines otherwise.
 - c. Limited right to counsel.
 - d. All answers are correct.

- 3. When explaining legal papers and correspondence, the court visitor should meet with the minor and explain the rights outlined in the Notice of Hearing.**
 - a. True
 - b. False

- 4. When ascertaining the minor's wishes/ position, the court visitor should always align with what the minor wants.**
 - a. True
 - b. False



Lesson 4: Ethical Considerations for GALs and Court Visitors

Learning Objective: The learner will recognize ethical considerations for GALs and CVs.

Overview

GALs and CVs, regardless if you are an attorney, are officers of the court and must be aware of professional conduct in and out of the courtroom. Statutes and rules in Washington state govern attorney CVs and GALs.

CVs and GALs should represent the best interest of the person(s) for whom they are appointed. This representation should consider the diverse, person-centered needs of each individual. The diversity of each individual includes but is not limited to race, ethnicity, economic status, sexual orientations, abilities, religion, gender identity and age. CVs and GALs are encouraged to consider the whole person and seek education around unfamiliar topics to best support these individuals.

Statutory Requirements

The only statutory requirement for CVs and GALs addressed by the Uniform Guardian Act relates to ex parte communication. The UGA specifies that a GAL or CV shall not engage in ex parte communications with any judicial officer involved in the matter for which the GAL or CV is appointed. Violation of this provision of the RCW is considered grounds for removal of the CV or GAL.¹⁹

¹⁹RCW 11.130.150

Court Rules

State

Washington State Court Rules of Professional Conduct govern attorney CVs and GALs.

Both attorney and non-attorney GALs and CVs are officers of the court, and in that capacity, must²⁰:

- Maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.
- Remain qualified for the registry at all times during appointment.
- Conduct themselves professionally.
- Avoid conflicts of interest, both actual and apparent, and take action immediately to resolve any potential conflict or appearance of impropriety.
- Treat parties with respect, courtesy, fairness and good faith.
- Make reasonable efforts to become informed about the facts of the case from various sources.



- Maintain the parties' privacy.
- Perform duties in a timely manner.
- Maintain documentation.
- Keep records of time and expenses.
- Limit duties to those outlined in the statute and ordered by the court.
- Inform individuals about your role in the case.
- Appear at hearings when required.

Rules for Guardian ad Litem

| | | |
|---|---|--|
| 1 | Represent best interests. | A guardian ad litem shall represent the best interests of the person for whom they are appointed. Representation of best interests may be inconsistent with the wishes of the person whose interest the guardian ad litem represents. The GAL shall not advocate on behalf of or advise any party so as to create in the mind of a reasonable person the appearance of representing that party as an attorney. |
| 2 | Maintain independence. | A GAL shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom. |
| 3 | Professional conduct. | A GAL shall maintain the ethical principles of the rules of conduct set forth in these rules and is subject to discipline under local rules established pursuant to GALR 7 for violation. |
| 4 | Remain qualified for the registry. | Unless excepted by statute or court rule, a GAL shall satisfy all training requirements and continuing education requirements developed for Title 11 RCW GALs as required by statute and maintain qualifications to serve as guardian ad litem in every county where the guardian ad litem is listed on the registry for that county and in which the guardian ad litem serves and shall promptly advise each such court of any grounds for disqualification or unavailability to serve. |

²⁰GALR2

Rules for Guardian ad Litem continued

| | | |
|-----------|---|--|
| 5 | Avoid conflicts of interest. | <p>A GAL shall avoid any actual or apparent conflict of interest or impropriety in the performance of guardian ad litem responsibilities. A GAL shall avoid self-dealing or association from which a GAL might directly or indirectly benefit, other than for compensation as guardian ad litem. A GAL shall take action immediately to resolve any potential conflict or impropriety. A GAL shall advise the court and the parties of action taken, resign from the matter, or seek court direction as may be necessary to resolve the conflict or impropriety.</p> <p>A GAL shall not accept or maintain appointment if the performance of the duties of guardian ad litem may be materially limited by the GALs responsibilities to another client or a third person, or by the GALs own interests.</p> |
| 6 | Treat parties with respect. | GAL is an officer of the court and as such shall at all times treat the parties with respect, courtesy, fairness and good faith. |
| 7 | Become informed about case. | GAL shall make reasonable efforts to become informed about the facts of the case and to contact all parties. A GAL shall examine material information and sources of information, taking into account the positions of the parties. |
| 8 | Make requests for evaluations to court. | A GAL shall not require any evaluations or tests of the parties except as authorized by statute or court order issued following notice and opportunity to be heard. |
| 9 | Timely inform the court of relevant information. | A GAL shall file a written report with the court and the parties as required by law or court order or in any event not later than 10 days prior to a hearing for which a report is required. The report shall be accompanied by a written list of documents considered or called to the attention of the guardian ad litem and persons interviewed during the course of the investigation. |
| 10 | Limit duties to those ordered by court. | A GAL shall comply with the court's instructions as set out in the order appointing a GAL and shall not provide or require services beyond the scope of the court's instruction unless by motion and on adequate notice to the parties, a GAL obtains additional instruction, clarification or expansion of the scope of such appointment. |
| 11 | Inform individuals about role in case. | A GAL shall identify as a GAL when contacting individuals in the course of a particular case and inform individuals contacted in a particular case about the role of a guardian ad litem in the case at the earliest practicable time. A GAL shall advise information sources that the documents and information obtained may become part of court proceedings. |

Rules for Guardian ad Litem continued

| | | |
|-----------|---|---|
| 12 | Appear at hearings. | The GAL shall be given notice of all hearings and proceedings. A GAL shall appear at any hearing for which the duties of a guardian ad litem or any issues substantially within a GAL duties and scope of appointment are to be addressed. |
| 13 | Ex parte communication. | A GAL shall not have ex parte communications concerning the case with the judge(s) and commissioner(s) involved in the matter except as permitted by court rule or by statute. |
| 14 | Maintain privacy of parties. | <p>As an officer of the court, a GAL shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a GAL. A GAL shall maintain the confidential nature of identifiers or addresses where there are allegations of domestic violence or risk to a party's or child's safety.</p> <p>The GAL may recommend that the court seal the report or a portion of the report of the guardian ad litem to preserve the privacy, confidentiality or safety of the parties or the person for whom the guardian ad litem was appointed. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure or discovery that addresses the need to challenge the truth of the information received from the confidential source.</p> |
| 15 | Perform duties in timely manner. | A GAL shall perform responsibilities in a prompt and timely manner, and, if necessary, request timely court reviews and judicial intervention in writing with notice to parties or affected agencies. |
| 16 | Maintain documentation. | <p>A GAL shall maintain documentation to substantiate recommendations and conclusions and shall keep records of actions taken by the GAL.</p> <p>Except as prohibited or protected by law, and consistent with with rule GALR2(n) or #14 in this list, this information shall be made available for review on written request of a party or the court on request. Costs may be imposed for such requests.</p> |
| 17 | Keep records of time and expenses. | A GAL shall keep accurate records of the time spent, services rendered and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment. The court shall make provisions for fees and expenses pursuant to statute in the Order Appointing Guardian ad Litem or in any subsequent order. |

Local

Most Superior Courts have local rules that govern CVs and GALs appointed within minor guardianship proceedings. Those rules usually

include ethical standards, as well as grievance procedures for complaints filed against CVs and GALs. All CVs and GALs should familiarize themselves with the local rules for the jurisdictions they practice in.²¹

²¹See https://www.courts.wa.gov/court_rules/?fa=court_rules.localsupbycr for local Superior Court rules .

Diversity and Equality

The individuals that CVs and GALs support are a diverse population with a wide range of race, ethnicities, economic status, sexual orientations, abilities, religion, gender identities and ages.

As professionals, it is important that we treat all individuals encountered with equal respect and consideration, while honoring how each individual's unique identity influences their life.

Implicit Bias

Implicit bias is the mental process resulting in feelings and attitudes about people based on race, age, gender and/or appearance.

Every person has implicit biases. It is an unconscious process – an individual is not necessarily aware of the negative racial, gender or other biases that the individual may develop over the course of a lifetime.

It is important to understand the causes of implicit bias and intentionally work to bring it to the conscious level in order to mitigate negative consequences.

Racial Bias, Racial Blindness and Systemic Racism

Racism is a form of prejudice that makes assumptions of people within racial categories having distinctive characteristics and that these differences result in some racial groups being inferior to others. Racism commonly includes negative emotional responses to members of the group, acceptance of negative stereotypes and racial discrimination against individuals; in some cases, it leads to violence.

Discrimination refers to the differential treatment of the members of different ethnic, religious, national or other groups.

Racial Bias

Implicit or overt racial bias promotes racial and ethnic inequality in American society. The negative attitudes that an individual develops as a result of racial bias leads to prejudice, stereotyping and discrimination.

The refusal to acknowledge or confront the existence and effects of racism only reinforces racial bias.

Racial Blindness

Racial blindness or colorblind racism is a form of discrimination which claims that skin color does not matter and the belief that all racial groups are treated equally. Colorblindness perpetuates discriminatory practices by allowing people to ignore circumstances that cause racial disparities.

Racial blindness:

- Promotes racial inequities by silencing racial discourse and purporting practices without regard to skin color.
- Contributes to racial inequities by invalidating experiences and identities of people of color.
- Promotes the mistaken belief that people are beyond bias and racism, ignores racial disparities and places blame on the behaviors of communities of color.

Systemic Racism

The Washington State Supreme Court has recognized that systemic racism exists in our justice system, and that the "systemic oppression of black Americans is not merely incorrect and harmful; it is shameful and deadly."

The Washington Supreme Court has further recognized that systemic racism is a "collective product of each of our individual action – every action, every day."

It is imperative that GALs and CVs – as officers of the court, child advocates and/or members of the legal community – recognize the impact of systemic racism, reflect on their actions, and take responsibility for those actions, and strive to better address racial issues so that we can work to dismantle systemic racism.

LGBTQ+ Considerations and Definitions

Language that describes sexuality, gender identities, gender expression and identities is constantly evolving. Terms and language may be used in varying ways across individuals, groups and regions.

Definitions are provided to help with general understanding of terms that will improve support in your role as a CV or GAL. Because language and identity are personal and constantly changing, practice allowing individuals to self-identify rather than use any of these terms to assess the identity of others.

Consider accessing dynamic resources for updated language for the following, as well as additional definitions: <https://lgbtq.wa.gov/data/general-information-and-definitions>.

Ally

An ally is a person who is not LGBTQ+ but shows support for LGBTQ+ people and promotes equality in a variety of ways.

An ally is someone who advocates and supports a community other than their own. An ally recognizes that though they are not a member of a marginalized group they support, they can make a concerted effort to better understand the struggle. Because an ally might have more privilege and recognizes where their privilege shows up, they are powerful voices alongside marginalized ones.

SOGIE

SOGIE refers to Sexual Orientation and Gender Identity Expression and describes a wider spectrum of all people, not the “LGBTQ+” community. Similar to other parts of our identity, like race and ethnicity, SOGIE is an important piece of our identity that can determine and shape our needs and experiences. The term “LGBTQ+” is specific to individuals who identify as lesbian, gay, bisexual, and transgender. SOGI refers to characteristics common to all human beings as everyone has a sexual orientation and gender identity. Everyone expresses their gender, not just individuals who identify as lesbian, gay, bisexual, and transgender.²²



²²https://www.health.ny.gov/prevention/sexual_violence/docs/sogie_handbook.pdf

LGBTQ+

| | | |
|----------|-------------------------------|--|
| L | Lesbian | A woman who is emotionally, romantically or sexually attracted to other women. |
| G | Gay | A person who is emotionally, romantically or sexually attracted to members of the same gender. |
| B | Bisexual | A person emotionally, romantically or sexually attracted to more than one sex, gender or gender identity though not necessarily simultaneously, in the same way or to the same degree. |
| T | Transgender | An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc. |
| Q | Queer/ Questioning | Queer is a term people often use to express fluid identities and orientations. Often used interchangeably with "LGBTQ+." Questioning is a term used to describe people who are in the process of exploring their sexual orientation or gender identity. |
| I | Intersex | An umbrella term used to describe a wide range of natural bodily variations. In some cases, these traits are visible at birth, and in others, they are not apparent until puberty. Some chromosomal variations of this type may not be physically apparent at all. |
| A | Asexuality | The lack of a sexual attraction or desire for other people. |
| + | | Stands for all the other sexualities, sexes, and genders that are not included in the letters above. |

Statistics for LGBTQ+ youth

A GAL should be aware of the problems or struggles that LGBTQ+ individuals face, in particular those that are prevalent with LGBTQ+ youth.

Nearly 30% of LGBTQ+ youth have attempted suicide at least once in the prior year (this compares to 6% of non-LGBTQ+ youth).

Across 24 states, 3.5% to 7.2% of heterosexual students did not attend school due to safety concerns, while 6.5% to 13.8% of gay, lesbian and bisexual students did not attend school due to safety concerns.²³

²³www.cdc.gov/lgbthealth/youth.htm

Developmental and Cognitive Disabilities

It is important to remember that minors with a cognitive or developmental disability remain the experts on themselves. Having a disability does not mean that person is not aware of their own preferences, wishes, likes and dislikes. When someone communicates other than verbally, it is important to take extra time to understand their preferences. This can be done by learning more about a person, what things are important to them based on observation, non-verbal interaction and by talking to those people who support the person in life. If you are unsure what type of relationship someone has with the child, you can ask;

- What is important to them (likes/dislikes)?
- What is important for them (health/safety)?
- When was the last time you did something with the person? What was it?

Asking these questions will help to ascertain whether it is a personal or system related relationship.

Cultural Considerations

Culture – Definition and Impact

Culture includes the values, attitudes, beliefs, experiences and customs shared by a group of people that contribute to a person's identity. It also includes communication styles, behavioral expectations and traditions.

An individual's culture impacts every part of each person's life, including:

- Family dynamics – how a family relates to one another, family roles, household living situations, etc.
- How an individual interacts and communicates with others in the case.
- How an individual participates in the court proceeding.
- How an individual copes with various situations.

Cultural Competence

Cultural competence includes our behaviors, attitudes and policies that enable us to work effectively in cross-cultural situations. GALs and CVs must respect and seek to understand the diverse cultures and social groups that define the individuals we work with.

As a GAL, it is important to understand and recognize how an individual or family's culture might impact or influence family dynamics, parenting choices, parent-child interactions and living arrangements. Be proactive in learning about the cultures of the people you work with. Be mindful not to judge people through your own cultural lens. Cultural competence is the ability to recognize the importance of race, ethnicity and culture. It is an awareness and acknowledgment that people from other cultural groups do not necessarily share the same beliefs and practices or perceive, interpret or encounter similar experiences in the same way. Cultural competence is rooted in respect, validation and openness toward someone whose social and cultural background is different from one's own.

Culturally Responsive Engagement Practices:

1. Build relationships and be present.
2. Recognize, honor and promote existing knowledge.
3. Identify and use what works for families.
4. Promote culture awareness, learning and sharing.
5. Foster community by building social capital.

Checkpoint

Read each question or statement and select the best answer from the options available. Check your answers on page 61.

- 1. What leads to prejudice, stereotyping and discrimination?**
 - a. Diversity.
 - b. Racial bias.
 - c. Cultural blindness.
 - d. All answers are correct.
- 2. SOGI refers to characteristics common to all human beings as everyone has a sexual orientation and gender identity.**
 - a. True
 - b. False
- 3. Assess how people are identified based on their appearance.**
 - a. True
 - b. False
- 4. Culturally responsive engagement practices might include which of the following:**
 - a. Build relationships.
 - b. Promote culture awareness.
 - c. Identify what works for families.
 - d. All answers are correct (Also includes fostering community by building social capital).



Module 3: Guardian Ad Litem Investigations in Minor Guardianship Proceedings



Lesson 5: Basics of a GAL Investigation and Report

Learning Objective: The learner will identify the GAL intake process and recognize the records to collect and investigate for each case.

Overview

The GAL has responsibilities for investigation and reporting for each case. Contact with parties and the child include intake and interviews, collection of information and documentation. A GAL will collect documentation and records in preparation for creating the GAL report. GAL reports can vary in length, content, and style. It is important that the report, at the very least, include information on the issues the GAL was tasked with investigating and reporting on in the GAL order of appointment.

Individual counties may vary on reporting, check with your local county to see if there are specific forms or requirements.

Intake and Interviews

Introductory Step

The introductory step of intake and interviews is the initial contact with parties and child. Parties in the case might include the petitioner and proposed guardian (if different than petitioner). Along with an Order of Appointment, the GAL should receive contact information for the parties in the case. The method by which the GAL receives this information is largely dependent on local court rules and procedures. If the GAL does not receive this information, then the GAL should reach out to the local court administration.

The GAL should attempt to make initial contact with the parties in the case and each parent, as soon as possible. This may be achieved by telephone, letter, or email. The GAL should keep track of all attempts to contact the parties, to include dates and times of contact.

The GAL should also make contact with the child in the case, but it is often helpful to make contact with the parties first.

**Note:* It is not uncommon in a minor guardianship to have difficulty locating a parent. A GAL should make best efforts to locate and interview a parent. If there is a CV or court-appointed attorney for the parent involved in the case, those individuals should be contacted to assist in contacting the parent.

Intake

Once the GAL initiates contact, the GAL should set up a date/time/place for an interview with the parties and child.

It is helpful to create a basic intake for the parties, to collect biographical information about the parties and child. The intake can be provided to the parties prior to an initial interview or completed at the initial interview.

Below are examples of information that a GAL might collect in an intake:

- Name and date of birth of the party.
- Physical and mailing address.
- Employment situation.
- Criminal history/DCYF history.
- Mental health diagnoses.
- Substance use history.
- Child's name and date of birth.
- Child's physical address.
- Medical history of the child.
- School information for the child.
- Concerns about the child.
- Concerns about the guardian and/or parents.
- Information about pending court proceedings.

Interviews

Documentation

Interviews of the parties and child should be documented by the GAL. This is generally done in written form, however, some GALs record interviews.

**Note:* If a GAL records an interview it is imperative that the GAL announce they are making a recording and receive verbal confirmation from the interviewee that the GAL has permission to record the interview.

The documentation of the interview should include the date and time of the interview and have sufficient content so that the GAL can utilize the notes when drafting the report at a later date.

Individuals to Interview

Petitioner and/or Proposed Guardian

The GAL should interview the petitioner and/or the proposed guardian (often the petitioner is the proposed guardian, but occasionally, they are separate individuals).

The GAL should collect information relevant to the Minor Guardianship action, to include the following:

- Information about the child.
- The length of time the child came into the guardian's care.
- The circumstances surrounding the child coming into the guardian's care.
- Concerns about the parents.

Parents

Each of the parents should be interviewed by the GAL.

In interviewing the parents, the GAL should collect the same information that was collected from the guardian, as well as the following:

- The parents living situation – is the parent’s current situation suitable for the child?
- The parents ability (or inability) to provide for the child’s physical and emotional well-being.
- Identify barriers to the parent’s ability to care for the child (mental health issues, substance use issues, housing instability, etc.).
- Safety concerns that would make contact between the parents and child inappropriate.
- If the child is in the care of the guardians, what level of parenting time/contact is in the child’s best interest.

Child(ren)

Location of Interview

Interviews of the child should be done in a location that is suitable for the child’s age and will make the child most comfortable.

For younger children, it may be best to interview the child in his/her current residence. For older children, an office visit may be appropriate.

A school environment is often a neutral, safe space to interview a child. If a GAL visits a child at school, the school will need to have the GAL’s Order of Appointment.

Content of Interview

A child should not feel like a GAL interview is an interrogation. Older children will be able to field questions better than younger children and will often be more aware of the legal situation and the GAL’s role in the case. Younger children may not be aware of the legal proceedings, and it may not be in their best interest to have knowledge about the legal proceedings.

A GAL should establish a rapport with the child before diving into deeper issues, by asking the child more general open-ended questions about school, likes/dislikes, friends, etc.

It is important to remember that a child over 12 will often participate in the Minor Guardianship court proceedings, and that part of the GAL’s duties is to explain the legal process and paperwork to the child.

The GAL should also determine what the child’s preference for guardianship is, if any, and what the child’s position on the guardianship is.

Collateral Contacts

Other individuals a GAL might interview include:

- Medical providers.
- Mental health professionals.
- Other family members known to the child, parents, and/or guardian.
- Teachers.
- Friends of the family.

Home Visits and Parent/Child Observations

A GAL may be required to conduct a home visit of the proposed guardian’s home, the parent’s home (or both), and/or observe the minor with the parent(s) or guardian(s).

**Note:* This may be based on preference/discretion of the GAL. Many GALs can conduct “home visits” virtually. Generally, if a GAL is aware of a concern with a home the child lives in, they are expected to do some sort of investigation/home visit.

Home visits can vary in duration and may be for different purposes (for instance, a GAL may conduct a home visit to observe the interactions with the parent and child, check the safety of a home, or to interview the child). At any home visit, the GAL should take note of the following:

- The interactions between the child(ren) and the parent(s) and/or guardians.
- Any safety concerns that might be present in the home.
- The cleanliness of the home.
- The adequacy of the home for the child(ren).

Collecting Documents and Records

Department of Children, Youth and Families

The Department of Children, Youth, and Families (DCYF) is a cabinet-level agency tasked with investigating child abuse and neglect. The vision of DCYF is to ensure that Washington state's children and youth grow up safe and healthy, thriving physically, emotionally and academically, nurtured by family and community.

The GAL interacts with DCYF and should request records from DCYF in relation to the guardian, parents, and child.

A request for records can be made via email by sending a copy of the GAL order of appointment to dcyf.publicdisclosure@dcyf.wa.gov.

If the names of the parents are not included in the GAL order of appointment, then the parents need to sign a release to allow the GAL to access DCYF records related to them. This authorization form is DCYF 17-063 and can be found at <https://www.dcyf.wa.gov/forms>.

Criminal History

If a GAL has an established account with Washington State Patrol, then the GAL can request a WATCH report on the parents and guardian.

If the GAL has access to the Judicial Information System, the GAL can see the docket entries related to criminal cases that an individual has been involved in.

If the GAL does not have access to WSP or JIS, then the GAL can do a simple name search on <https://dw.courts.wa.gov/index.cfm?fa=home.namesearch&terms=accept&flashform=0>. This will give the GAL an idea of what court or police department to request records from.

For misdemeanor cases, most district courts have online access to records through the local court website. Some municipal courts also have online access, but the GAL may need to make a records request to the court to obtain records.

For felony cases, the GAL can obtain records for most jurisdictions through Odyssey <https://odysseyportal.courts.wa.gov/odyportal>. For King County cases, the GAL can utilize KC Script Portal – <https://dja-prd-ecexap1.kingcounty.gov/?q=node/501>. Pierce and other counties may not use KC Script or Odyssey. Please check with your county for available portal or resources.

Police and 911 Records

Police records and incident reports are requested through the local police agency in the jurisdiction where the incident occurred. Most police departments have a public records request portal, or a form that the GAL can complete to request records.

Where/how to request 911 records depends on the jurisdiction that they are being requested from. 911 records are often requested through a separate agency than the local law enforcement agency. (For instance, NORCOM in East King county, or South Sound 911 for Pierce County).

Medical and Mental Health Records

While a GAL may be able to utilize their Order of Appointment to obtain medical and mental health records for an adult or child, the provider may require a separate release. It is helpful for a GAL to have a release readily available for a parent/child (if over age 12) to sign.

These records are requested directly from the medical provider. Information about how to obtain records can generally be found on the provider's website.

The GAL Order of Appointment should be included with the records request.

*Note: Documents that a GAL receives through a release executed by a parent or child should not be re-released by the GAL and must be kept confidential (sometimes even from the other parties in the case). If the GAL is unsure if medical/mental health records should be released (to another party as part of response to a file request, for instance), the GAL should ask the court for direction/clarification before releasing the information.

Academic Records

School records can be obtained utilizing the GAL Order of Appointment without the necessity of a separate authorization or release.

A letter should be sent to the school, along with the Order of Appointment, requesting the child's school records. The letter should include the child's name and date of birth.

GAL Report

GAL reports can vary in length, content and style.

It is important that the report, at the very least, include information on the issues the GAL was tasked with investigating and reporting on in the GAL Order of Appointment.

Generally, a GAL report should include the following:

- A summary of the investigation, to include names of individuals contacted, dates of interviews, dates of home visits and records collected.
- Summaries of interviews and information collected, to include information on the issues outlined in the Order of Appointment.
- The child's stated preference/position (if any).
- Recommendations (if asked to make recommendations in Order of Appointment, or by the court).

In a minor guardianship proceeding, the issue in dispute is the parent's fitness or ability to provide adequate care for the child. As such, the GAL report should include information from the investigation that is relevant to the parent's ability to perform parenting functions. Parenting functions include, but not limited to the following:

- Maintaining a loving, stable, consistent and nurturing relationship with the child.
- Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family.
- Attending to adequate education for the child, including remedial or other education essential to the best interests of the child.
- Assisting the child in developing and maintaining appropriate interpersonal relationships.
- Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances.
- Providing for the financial support of the child.²⁵

²⁵RCW 26.09.004(2)

Tips for Successful Court Report Writing

Your court report is a powerful document that will forever be a part of your case. Upon reading your report the judge should have a good picture of the current situation, accurate information on the minor's current status and a clear understanding of your recommendations. You want your report to be objective but persuasive. Below are some tips that will help you write a great court report.

- Give yourself **plenty of time** to write your report and don't wait until the last minute.
- Keep your report **fact-based, child focused** and **family centered**.
- Be **familiar** with the **format** of your report, it is likely a formatted report will be given to you by your program. Follow that format!
- Know your audience. **You are writing for the judge**; however the other parties will also be reading your report. Write as if the judge knows nothing about the case.
- **Be accurate**. If you quote someone, make sure that the quote is accurate in word and citation. Cite where you are getting information. For example, "The mother reported..."
- Report **objectively** and **factually**. If you are writing about something that is intangible, like someone's emotions, attitude or behavior, use words like "seems" or "appears", however try to limit these conclusions unless absolutely necessary.
- Write in an active voice. For example: The mother did begin her drug and alcohol treatment (passive) v. The mother began her drug and alcohol treatment (active).
- **Be consistent** in how you address yourself, whether it is in the first person (I) or third person (this Advocate).
- **Be clear and concise**. State facts and identify your sources. Avoid using technical jargon and abbreviations.
- **Refrain from making personal judgments**. For example: If the parent really loved their kids they would be participating in the services.
- Find something positive to say about the parents.
- **Refrain from gushing** about the proposed guardian. Merely address whether or not the child's needs are being met and whether or not you have any concerns.
- Don't use your report as a way to deliver important information for the first time. You should be communicating with the parties throughout the review period. What is ultimately in your report should not be a surprise to the other parties.
- **Edit and proofread!** Check your spelling (including people's names), grammar and punctuation.
- **Make a case** in the body of your report that **supports your recommendations**.

Checkpoint

Read each question or statement and select the best answer from the options available. Check your answers on page 61.

- 1. The method by which the GAL receives contact information for the parties in the case is largely dependent on local court rules and procedures. If the GAL does not receive this information, then the GAL should reach out to the local court administration.**
 - a. True
 - b. False
- 2. An intake should collect biographical information about the parties and the child. When should the intake be provided to the parties?**
 - a. Before or during to the initial interview.
 - b. Only before the interview.
 - c. Only during the initial interview.
 - d. All answers are correct.
- 3. Who is the GAL responsible for interviewing?.**
 - a. Petitioner and/or proposed guardian.
 - b. Parents.
 - c. Child(ren).
 - d. All answers are correct.
- 4. What records should the GAL collect?**
 - a. Criminal, police and 911 records.
 - b. Medical and mental health records.
 - c. Academic records.
 - d. All answers are correct.



Lesson 6: Complex Concerns in GAL Investigations

Learning Objective: The learner will recognize GAL responsibilities when complex concerns arise during investigations.

Overview

GALs encounter complex concerns during investigations. Each case might present a variety of concerns. Substance use, mental health disorders, domestic violence, abuse, neglect and trauma can all present challenges in a case.

It is the responsibility of the GAL to investigate these topics and to also be aware of child development stages.

Substance Use

Parent substance use and substance use disorder is a common concern in a Minor Guardianship proceeding, and a GAL is often tasked with investigating.

Substance use disorder is a disease that affects a person's brain and behavior. Drug addiction is clinically referred to as substance use disorder. A person with SUD has an inability to control their use of substances despite negative consequences.

When gathering information about substance use and SUD, it is important to talk to the parent with the alleged substance use concern, as well as other individuals that may have knowledge of the parent's alleged substance use.

When interviewing a parent, it is helpful to ask open-ended questions, such as:

- Do you believe you have a substance use problem?
- What should I know about your substance use and recovery?

- Do you have a recovery plan or relapse prevention plan that you feel works for you?
- What are signs that you are doing well in your recovery?
- What are signs that you are not doing well in your recovery?

During the interview, pay attention to the content of the information the parent is providing, as well as the parent's tone and body language.

If a parent is in a treatment or recovery program, or was in the past, ask the parent if they would be willing to sign a release to allow you access to those records.

If the GAL believes that a parent is under the influence or actively using illegal substances or alcohol to the extent that the child would be at risk, the GAL should take actions to protect the child.

- If the child is currently in the care of the parents, the GAL may need to seek emergency relief from the court and request that the child be placed in the care of the guardian. At the very least, the GAL should make the court aware of the concern.
- If the child is not in the care of the parent, the GAL may need to make recommendations to the court to limit the parent's time with the child or ask that the parent's time with the child be supervised.

In working with parents that have SUD or are in recovery, a GAL should do the following:

- Pay attention to the language used with parents in recovery.
- Pay attention to the lens by which the GAL sees and treats the parent.
- Pay attention to the lens by which the parent sees the GAL.
- Be clear about the GAL's role, responsibilities and expectations.
- Seek to understand the parent's mindset by asking questions and actively listening.
- Understand that there are many paths to recovery and what works for one may not work for all.

For further information on assessing substance use concerns related to a parent within a GAL investigation, see the Guideline for Assessing Claims of Mental Illness or Substance Abuse handout (page 45).

Mental Health

A GAL may be asked to investigate allegations that a parent has a mental health disorder or may be asked to make recommendations regarding a child struggling with mental health concerns.

Youth Mental Health

If a child has a mental health provider (counselor, psychologist, psychiatrist), it is important to contact that provider for information about the child's mental health. A child over the age of 13, will need to provide consent for the GAL to access his or her mental health information.

If a child is in crisis – experiencing suicidal ideation, engaging in self-harm – a GAL should take immediate action to address the situation and ensure the child's safety. This may mean filing a motion for an immediate order with the court (this can usually be done on an ex parte calendar); or if there is an immediate risk that the child is in danger – suicide or self-harm is imminent, the GAL must contact 911 or other emergency services immediately.

Investigating Mental Health Concerns

Investigating mental health concerns of the parties can be difficult if the party is not cooperative with the GAL's investigation.

If asked to investigate mental health concerns, the GAL should ask the party to sign a release to allow the GAL access to the party's mental health records.

For further information on assessing mental health concerns of a parent within a GAL investigation, see the Guideline for Assessing Claims of Mental Illness or Substance Abuse handout.

Guideline for Assessing Claims of Mental Health Disorder or Substance Use Disorder

Questions to Ask about Parents – Ideally Parent’s Treatment Provider

Understanding the diagnosis

- ☐ Was mental illness or substance abuse diagnosed? When? By Whom?
- ☐ What is the parent's specific diagnosis?
- ☐ What symptoms, behaviors, and/or types of substances were identified, observed or admitted to using that support the diagnosis?
- ☐ What is the current level of severity of symptoms or behaviors observed?
- ☐ What is the mental disorder or substance use disorder history of the individual, including previous diagnoses, treatment (for Substance Use Disorder (SUD), how many residential, intensive outpatient program (IOP), and outpatient program (OP) episodes, and outcomes of each), crises or hospitalizations?
- ☐ What is the common prognosis for an individual with this diagnosis?
- ☐ What are the common treatments for individuals with this diagnosis?

Asking about Treatment

- ☐ Is the parent currently in treatment?
- ☐ If the treatment is for SUD, is the parent providing random urinalysis/urine test?
 - If so, what are the past 6 months of results (e.g., what is the parent's clean date?)
- ☐ For SUD, is the parent actively involved in a community-based recovery group?
- ☐ What are the current goals of treatment?
- ☐ In what treatment activities is the individual currently engaged?
- ☐ What is the individual's level of engagement in and commitment to treatment? As evidenced by...?
(Ask about **specific behavioral indicators**)
- ☐ What is the individual's progress to date on treatment goals? As evidenced by...?
(Ask about **specific behavioral change**)

Safety & Risk

- ☐ Does the individual pose a risk of harm to themselves or to others?
- ☐ What specific risk factors are present or absent to support the risk status?
- ☐ What is the risk for relapse/ decompensation / recurrence?
- ☐ What factors mitigate risk for the individual? (Ask about safety/relapse prevention plans)

Parenting Implications

- ☐ What is your general understanding of how this diagnosis might impact an individual's capacity to parent?
- ☐ How might the parent's diagnosis impact their ability to co-parent?
- ☐ In your estimation, is the individual able to meet the basic needs of children?
 - Safety and protection.
 - Food and shelter.
- ☐ What is your assessment of the individual's ability to manage relationship aspects of parenting?
 - Attachment and warmth.
 - Attunement and responsiveness.
 - Emotional support and nurturance.
 - Predictable and reliable responses.
 - Modeling prosocial behaviors - such as distress tolerance, positive coping skills, healthy relationships, etc.
- ☐ What is your assessment of the individual's ability to handle executive aspects of parenting?
 - Manage child behavior, establish routine and structure.
 - Manage logistics of childcare - school, medical appointments, activities, etc.
 - Maintain engagement with the outside world.
- ☐ **For each of these questions, ask about what is the basis of the professional opinion:**
 - **Direct observation?**
 - **Specific behaviors I capacities of the individual?**
 - **Common understandings of the diagnosis?**

Parenting Observations

- ☐ Have you directly observed the individual with their child(ren)? Have you directly observed them while engaged in parenting activities?
- ☐ Are you aware of any impacts of the individual's mental health or substance use on the children?
 - Parent self-report?
 - Direct observation?
 - Report of professional treating the children?
- ☐ Are you aware of any specific risk to the children from the individual? From others?
- ☐ Are you aware of any specific parental strengths that provide protective factors for the child(ren)?
- ☐ Do you have any specific treatment recommendations related to parenting?

Questions to Ask about Impact of Parent Mental Disorder or Substance Use on Children

Understanding the Child

- ☐ What is the child's age and current level of developmental functioning?
- ☐ What is the child's current level of functioning at school, at home, in the community?
- ☐ What strengths and protective factors are present in the child?
- ☐ In what supportive relationships and activities is the child's involved?

Experience of Parent's Mental Illness

- ☐ What is the child's direct experience of the parent's mental health symptoms or use of substances?
- ☐ How has the child been impacted directly or indirectly by the parent's mental health disorder or use of substances?
- ☐ Has the child's immediate safety been directly impacted by the parent's mental health disorder or use of substances?
- ☐ What is the child's current level of knowledge, awareness and understanding of the parent's mental health disorder or use of substances?
- ☐ What coping strategies has the child employed to deal with parent mental health disorder or substance use? (Ask about internal and external supports)
- ☐ **For each of these questions, ask about what is the basis of the professional opinion:**
 - **Direct observation?**
 - **Specific behaviors I statements of the children?**
 - **Report of other reliable collateral parties?**

Direct Observation

- ☐ Have you directly observed the child with the parent who has a mental health disorder or substance use disorder?
- ☐ Have you directly observed the child with the other parent?
- ☐ What did you note about the parents' ability to demonstrate the following?
 - Attachment and warmth.
 - Emotional support and nurturance.
 - Modeling of prosocial behaviors - such as distress tolerance, positive coping skills, healthy relationships, etc.
 - Manage child behavior, establish routine and structure.
 - Manage logistics of childcare - school, medical appointments, activities, etc.
 - Maintain engagement with the outside world.
 - Attunement and responsiveness.
 - Predictable and reliable responses.
- ☐ What did you specifically note about the child's emotional and behavioral response to the parent(s)?
- ☐ What is your assessment of the level of the child's overall attachment to the parent(s)?

Going Forward

- ☐ What do you believe the child needs from the parent in the following areas?
 - Basic needs, protection, and safety.
 - Dealing with the parent's mental health disorder or substance use.
 - General parenting capacity.
- ☐ What do you believe the other parent can do to support the child's relationship with the parent who has substance use disorder or mental health disorder?
- ☐ What do you believe the other parent can do to support the child in dealing with the condition of the parent with the diagnosis about which we are concerned?
- ☐ Going forward, what do you believe the parent with the diagnosis needs to do to support the child?

Domestic Violence

In investigating a case, a GAL may encounter individuals who are the victim of domestic violence, or a perpetrator of domestic violence. The child in a minor guardianship proceeding may have witnessed domestic violence.

Domestic violence can be both physical and emotional in nature. As a GAL, it is important to understand, and be able to identify, patterns of abusive and violent behaviors. Abuse can take many forms:

- Physical Harm: Causing physical harm to the victim.
- Intimidation: Making the victim afraid through looks, actions, and gestures. This might include throwing items, destroying the victim's property, harming pets or displaying weapons.
- Coercion and Threats: Making threats to do something to harm the victim. Threatening to leave the victim, commit suicide or get the victim "in trouble."
- Economic Abuse: Preventing the victim from becoming employed, controlling the victim's access to money or providing the victim an "allowance."
- Emotional Abuse: Putting the victim down, making the victim feel bad about themselves, calling the victim names, gaslighting the victim or humiliating the victim.
- Isolation: Controlling the victim's ability to leave home or engage with others.

What makes it hard for us, as GALs, to talk about DV, especially early on in a case?

- Feel awkward or uncomfortable
- Be outside our training or expertise
- Take too much time
- Complicate the case
- Seem to jeopardize neutrality
- Bring up old wounds best forgotten
- Re-traumatize the GAL (or a party)

Disclosure of DV can...

- Jeopardize the safety of battered parents and children
- Prompt unwanted referral to police or child protection
- Invite unwelcomed intrusion into private affairs
- Open up home to governmental scrutiny
- Raise concern about unnecessary delays
- Feel like a betrayal or cause torn allegiances
- Make abused parent worry that s/he won't be believed, understood or trusted to protect children

Safe & Informed Disclosure

- Explain your role & function in the case.
- Explain why you are asking about domestic abuse.
- Explain how you will use the information.
- Explain whether & how information will be shared.
- Explain whether information will be in your report.
- Explain the scope and/or limits of confidentiality

In addition, helpful collateral sources may include:

1. Family members, friends, neighbors, co-workers (especially of the abused parent), community members or former partners who have had regular interactions with the family or been involved in particular incidents relevant to the inquiry. Care must be taken in these instances to guard the flow of information so that neither an adult party nor a child is put at increased risk, keeping in mind that the abuse may not have been disclosed to others yet.
2. Professionals with whom the family has had ongoing associations, such as doctors, teachers, clergy or counselors.
3. Professionals (including shelter advocates, child welfare workers, or attorneys) who have become involved with the family because of reported incidents of, or concerns about, domestic violence or the safety or well-being of the children involved.

Pertinent records that may also help may include:

- Police reports.
- Child abuse/child protection reports.
- Court files in the present case and any relevant prior civil or criminal cases involving either party.
- Medical, mental health, and dental records.
- School records.

In extraordinary circumstances, guardians ad litem may seek court permission for further evaluation through psychological testing—although this must be relevant and approached with caution, as psychological testing (e.g. MMPI's or other personality measures) is not helpful in predicting domestic violence aggressive behavior or dangerousness. In addition, the results of psychological testing must be interpreted in the context of domestic violence.

Accessing files related to domestic violence

In the course of a thorough investigation, and depending on the facts of each case, guardians ad litem will look at files and materials related to domestic violence from a variety of sources, including, but not limited to;

School Records: Schools will often share information with a guardian ad litem after initial contact is made by telephone, and the school receives a copy of the Order of Appointment. Many schools will accept copies via facsimile, so this process can occur fairly quickly.

Medical/Mental Health Records (including perpetrator treatment programs): Most providers of medical and mental health care, as well as providers of substance use disorder and domestic violence assessments and treatment, will have their own specific release forms. The parent, step-parent or third party custodian should be directed to go to the provider and execute a release of interest allowing that provide to share information with the guardian ad litem. It is also appropriate to provide a copy of the court Order of Appointment to the provider.

Criminal Records: Guardians ad litem should do a criminal background check as a routine part of every investigation. Criminal Conviction data can be accessed through the Washington State Patrol website: <http://www.wsp.wa.gov/crime/crimhist.htm>. There is a \$10 fee for each search. There may be a way to do a criminal background check through the court which made the appointment. Practices vary from county to county, but it is worth asking questions of court staff.

Probation Records: A guardian ad litem may also need to obtain information from Probation Services. Most probation officers should be able to speak freely with a court appointed guardian ad litem upon verification of appointment.

Employment Records: On some matters, it may be significant to look at a domestic violence perpetrator or victim's employment records. An employee's privacy is protected by law, and employers are likely to be very cautious in this arena. Practices will vary from employer to employer, and a release from the former employee may meet any requirements.

Miscellaneous Children's Records: Day care, preschool, camp and extra-curricular activity records may also be important, and a Guardian ad litem should be able to access these by providing a copy of the court order.

Child Protective Service Records: Child Protective Service (CPS) records may show prior reports of abuse or violence in the home and may be significant. CPS should allow a guardian ad litem access to the files related to any parties in an action. This may mean a trip to the CPS office to actually review a paper or electronic file.

Please remember that any child who is the subject of an action and is over the age of twelve years needs to execute a release allowing the guardian ad litem access to their medical and mental health records.

A guardian ad litem has the option of getting back in front of a judicial officer with a motion for an order allowing access to specific records. Most judicial officers, while careful to protect confidentiality, will be generous in allowing a guardian ad litem access to relevant information upon a careful showing of need, and meeting the overriding standard of in the best interests if the children.

Confidentiality and Privilege

In cases involving domestic violence, the abused party and children may not be able or willing to disclose information that may put themselves or others at risk. Thus, in some cases, the abused party may not be able to share various pieces of information, including addresses (theirs or those of others), employers, children's school or daycare, support groups, substance use disorder treatment providers. Some of the information about the parties and the children may be protected by confidentiality or privilege laws, including information held by health care providers, mental health counselors, domestic violence or sexual assault advocates. It is crucial for guardians ad litem to become familiar with these confidentiality laws and legal privileges, so that appropriate releases may be developed, and so that guardians ad litem do not violate the privacy and confidentiality rights of the parties and the children.

In addition, in some cases, the abused party or others may be increasing the risk of danger to themselves or the children because domestic violence is being disclosed to an outside party for the first time. In order for the abused party to appropriately plan for his or her own safety, the guardian ad litem must be explicit and procedures must be transparent so that he or she will know as much about what information will be disclosed, to whom and when.

Investigation Protocols that Increase Safety

With care, the guardian ad litem should be able to shield the parties from any contact or unsafe communication with one another during the process of investigation and developing recommendations. In many cases, the guardian ad litem should be able to seek corroboration of adverse information disclosed by one party about the other without disclosing the source of that information. It is important, however, to ensure that the parties understand the lack of confidentiality in the process. It is crucial that, in order to try to minimize the risk of retaliatory abuse, the guardian ad litem inform all individuals who are interviewed that the guardian ad litem's file may be discoverable (requested by the parties), and thus any reports and notes regarding interviews may become available to the court and the parties. Guardians ad litem are also likely to be called as a witness at trial in contested cases and may be asked questions about any statements made by any person the guardian ad litem interviewed or any documents that guardian ad litem reviewed. In order to best protect the safety of the parties and children, guardians ad litem should:

- Make initial contact with each party separately.
- Reflect the safety needs of each family member in any guidelines for further contacts with both the adult parties and the children.
- Respect the terms of existing restraining/protection orders.
- Assist unrepresented litigants understand the evaluation process, the risks of disclosing information that may be shared with the other party, and the risks of not disclosing information.
- Inform the parties of an evaluator's duty to report suspected child abuse (if relevant).
- Whenever possible, avoid identifying one party as the source of negative information about the other.
- Seek to corroborate information obtained from the abused party or children, so that it appears to have been obtained from multiple sources.
- If it becomes clear that information must be disclosed that may put one of the parties at risk, the guardian ad litem should alert that party to the disclosure in advance, so that he or she may take whatever safety precautions are warranted and available.
- Avoid attributing direct quotes to children.
- Use specialized techniques and understanding to obtain and interpret information from children (see below).

Special considerations apply to interviews of children and the use of information obtained from them.

First, interview strategies should be non-suggestive and appropriate to the age and developmental stage of the child.

Second, the guardian ad litem must build into his or her report the understanding that, while children may provide accurate information, their answers may also involve misinterpretations (or developmentally appropriate but immature interpretations) of events, statements or dynamics, or be influenced by input from one or both parents.

Recognize that children may never feel safe disclosing negative information or feelings about a parent; at a minimum, they should be interviewed separately in cases where there are allegations of abuse, even if they are also interviewed, or observed, with one or both parents. From a safety perspective in the context of domestic violence, it is also critical that the guardian ad litem not attribute direct quotes to children, in order to reduce the risk that a parent will use the children's words against them or against the other parent.

Washington State Court rules provide guidance about the importance of privacy and confidentiality in the scope of the responsibilities of the guardian ad litem. GALR 2(n) directs guardians ad litem to maintain the privacy of the parties. The rule states, "[a]s an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem."

In addition, in cases involving domestic violence, the guardian ad litem shall "maintain the confidential nature of identifiers or addresses." This is not limited to only the identifiers or addresses of the parties and children, it can also apply to information about other persons interviewed.

Determine whether all or a portion of the report should be submitted under seal. In cases where the guardian ad litem is concerned about the safety or confidentiality of the parties or witnesses, the guardian ad litem may recommend that the court seal the report or a portion of the report.¹¹⁷ In addition, if the guardian ad litem is concerned about the safety of a witness, the guardian ad litem may ask that the court establish conditions to protect witnesses from harm, or address other concerns relating to confidentiality while maintaining the ability of the parties to challenge the truth of the information.

Guardians ad litem may need to provide the abused party with information or referrals on safety planning, which may include referring the abused party to a domestic violence program or shelter.

Assessment of the domestic violence risk posed to children

Given the range of physical and psychological danger to children and the many elements necessary for recovery, assessing the risk of danger to children is complex. The guardian ad litem should gather information from many sources.

Factors to be considered in assessing risk to children. In particular, guardians ad litem should be gathering information regarding the following:

- Level of physical danger to the non-abusing parent, because the higher the severity or frequency of a batterer's/abuser's level of violence, the greater the risk of child abuse.
- History of physical abuse towards the children.
- History of sexual abuse or boundary violations towards the children.
- Level of psychological cruelty to the non-abusing parent or the children. Research indicates that the degree of emotional abuse in the home is an important determinant of the severity of difficulties developed by children exposed to domestic violence.
- Level of coercive or manipulative control exercised during the relationship. Research indicates that the more severely controlling individuals are towards their partners, the more likely they are to draw the children in as weapons of the abuse.
- Level of entitlement and self-centeredness, meaning an abuser's perception of themselves as deserving of special rights and privileges within the family. Highly entitled and self-centered abusers have been observed to chronically exercise poor parenting judgment and to inappropriately expect children to take care of their emotional and physical needs.

- History of using the children as weapon, such as manipulating the victim by threatening to abuse or take away the children, hurting partner by hurting children, not allowing partner to comfort children or have physical contact with them, teaching children to use insulting language towards the non-abusing partner, and of undermining the other parent.
- History of placing children at physical or emotional risk while abusing the other parent.
- History of neglectful or severely under-involved parenting.
- Refusal to accept the end of the relationship, or to accept the other parent's decision to begin a new relationship, as such behavior often is accompanied by severe jealousy and possessiveness and has been linked to increased dangerousness in batterers.
- Level of risk to abduct or murder the children.
- Substance use disorder or substance use history.
- Mental health history, with recognition that psychological tests and evaluations do not predict parenting capacity well even in the absence of domestic violence, and that mental health testing cannot distinguish a batterer from a non-batterer, or assess dangerousness in batterers.

Guardians ad litem should also address the lethality risk of a domestic violence perpetrator. One of the more troubling aspects of responding to domestic violence is assessing how dangerous the domestic violence may be in a specific individual case. Research indicates that not infrequently, domestic violence may cause death or severe injury to the adult victim, the perpetrator, the children, or others due to the behaviors of the perpetrator, or the adult victim, or the children. A threat of suicide indicates high lethality, although suicide is uncommon.

What domestic violence fatality reviews in various states have shown is that much of the salient information related to the homicides or severe injuries was known prior to the homicides by various community systems, but too often decision-makers did not understand the connection between the domestic violence and individual factors or knew only part of the information.

When the courts and the community are weighing the safety needs of the children and abused parent, they must consider all the factors and must gather information from multiple sources: the adult victim, children, other family members, perpetrators and others (probation, counselors and anyone having contact with family).

What follows is a list of factors to consider when attempting to assess the danger to any party, either through significant injury or death (not just related to DV perpetrator homicide potential) in a particular domestic violence case:

Abuse and Neglect

A child in a minor guardianship may have experienced abuse or neglect in their past. The parents of the child may have been the subject of a dependency, or the minor guardianship may have been initiated, and the child placed with the guardian, to avoid a dependency. Abuse and neglect are often concerns in dependency proceedings, and consequently minor guardianship proceedings.

As a GAL you may be asked to investigate allegations of abuse and neglect on the part of the parents, against the child.

If allegations of abuse or neglect are at issue in a case, DCYF records will often contain information relevant to a GAL investigation. Within DCYF records, a GAL should look for historical patterns of abuse and neglect.

Neglect

Neglect is the failure of a caregiver to meet a child's basic needs, such as food, clothing, shelter, medical care or supervision; or negligent treatment that endangers a child's health, safety and welfare.

**Note:* Neglect may be associated with a parent's substance use, substance use disorder, or mental health disorder, which may interfere with their ability to provide care.

**Note:* Housing instability or poverty do not, in themselves, constitute neglect. A parent may not have permanent housing, or the financial ability to care for a child; however, a parent may be able to remedy these issues (for housing – by finding a temporary placement/shelter, for financial – by finding other methods to acquire food, medical care, etc., such as through social services program or charities).

Physical and Sexual Abuse

While not as common, physical and sexual abuse are sometimes issues of concern in Minor Guardianship proceedings. Often, though not always, these allegations may be accompanied by criminal charges.

DCYF records and police reports will often contain information relevant to the GAL's investigation into these issues.

Childhood Trauma

In a minor guardianship proceeding there are often barriers (discussed above) that prevent the parents, or affect the parent's ability, to care for the child. Children in these situations often witness substance use on the part of a parent, criminal activity, domestic violence between parents, etc. As a GAL, it is important to be able to recognize and respond to the impact of traumatic stress in children.

Trauma can hinder a child's development, and interfere with a child's functioning in relationships, school, and life. Traumatic stress overwhelms a child's capacity to cope and elicits feelings of terror and powerlessness.

Types of Trauma

Acute Trauma

A single traumatic event that is limited in time. During an acute event, children go through a variety of feelings, thoughts and physical reactions that are frightening.

Chronic Trauma

The experience of multiple traumatic events. The effects of the trauma are often cumulative.

Complex Trauma

The exposure to chronic trauma (usually caused by adults entrusted with the child's care) and the impact of such exposure on the child. Complex trauma has profound effects on nearly every aspect of the child's development and functioning.

Historical Trauma

A personal or historical event or prolonged experience that continues to have an impact over several generations (i.e., slavery, genocide, oppression, etc.).

Emotional and Behavioral Responses to Trauma

A child may feel emotionally overwhelmed, and that can interfere with age-appropriate self-regulation. Emotions experienced prior to language development are real, but difficult for the child to express verbally. Trauma can be stored in the body in the form of physical tension or health complaints. Children may exhibit over-controlled or under-controlled behavior to counteract feelings of helplessness. Children may have maladaptive coping strategies that can lead to behaviors such as sleeping or eating problems, irritability, acting out, emotional detachment, hyper-vigilance, depression, anxiety, exaggerated response, etc. Children may engage in high risk or destructive coping behaviors.

Adverse Childhood Experiences

Adverse Childhood Experiences (ACEs) are stressful or traumatic events experienced in childhood (0-17 years), including abuse and neglect. They may include household dysfunction, such as witnessing domestic violence. They may include growing up with family members who have substance use disorders.

ACEs are strongly related to a wide range of health concerns throughout a person's life. Exposure to chronic stressful events as a child can disrupt brain development. The more ACEs a child experiences, the more likely the child will have adverse life experiences. This can lead to unhealthy coping mechanisms. Unhealthy coping mechanisms can contribute to disease, disability, social and academic challenges and premature death.

ACEs are common. About 64% of U.S. adults reported that they had experienced at least one type of ACE before age 18, and nearly 1 in 6 (17.3%) reported they had experienced four or more types of ACEs²⁷.

The presence of ACEs does not necessarily mean that a child will have negative outcomes. Positive experiences or protective factors can lessen the likelihood of a child's negative outcomes.

A key characteristic of youth who are successful in combatting ACEs is resilience. Resilience has been broadly defined as a mental process of negotiating, managing and adapting to significant sources of stress or trauma.

The single most common factor for children who develop resilience is at least one stable and committed relationship with a supportive parent, caregiver, or other adult.

Child Development

Child development describes the changes that children experience as they grow older. As children grow physically, they also develop knowledge, skills, and behavior. Parents and other adults, such as grandparents and care providers, play important roles in children's development.

Children develop in areas of:

- Cognitive: How children think, learn, understand, solve problems and remember.
- Language: How children learn to speak sounds, words and sentences and use sign language and body language to communicate with others.
- Social and emotional: Social development is how children learn to develop relationships and cooperate with family, friends and teachers. Emotional development is how children learn to express, understand and manage their own emotions, as well as respond to the emotions of others.
- Physical: How children learn to move and use their muscles. This can be separated into large motor skills and small motor skills.

²⁷<https://www.cdc.gov/violenceprevention/aces/fastfact.html>

These areas of development are all connected, so rather than thinking about these areas as separate, it is important to think about the whole child.

As a GAL it is important to have a general understanding of child development. Children develop at their own pace; however, general development stages are listed below. Get to know the developmental stages for the children that you are advocating for by using the following chart, as well as additional resources such as the developmental milestones located online at <https://www.cdc.gov/ncbddd/actearly/milestones/index.html>.

Child Development Stages

Infant: 0-1 Year

- First 4 months babies are symbiotic.
- ~12 weeks: much greater sense of social interaction, who holds them, recognition of familiar faces and places.
- Regular sleep cycle until approximately 4 months; then a normal sleep cycle is 3 1/2 - 4 hours, with brief alert between cycles (centering behavior is often needed to move to next cycle).
- Birth to 8 months: children develop trust in people around themselves and a feeling of security that needs will be met.
- ~6 - 8 months: children begin to be mobile (crawl, roll, scoot) a child begins to recognize they are a separate person (separation anxiety begins can last up to 4 years).
- ~6 months children will want to be held by their primary caretaker.
- Need time to get acquainted with new places and other people.
- Cannot communicate needs other than crying, sometimes screeching vocalizations.
- Emotional "sponges" and pick up emotional tension in the adults around them.
- Average age to crawl is 8 months, to walk is 13-18 months.

1-1.5 Years

12 - 15 months equilibrium

15 - 21 months disequilibrium

21 - 24 months equilibrium

- Egocentric, non-compliant, affectionate.
- Persistent and directionless are the two extremes (very short attention spans).
- Uneven and unpredictable, unmodulated emotions.
- Respond easily to frustration.
- Beginning of tantrum age (many, short lived).
- Love opposites.
- Parallel play with other children.
- If they engage it is normal to push, poke, bite, etc.
- Two out of five good meals is normal - especially in disequilibrium.
- Sleep is difficult between 15 -21 months (going to sleep/ staying asleep).
- Live in present moment only - don't have any understanding of tomorrow or yesterday - By end of one begin to do event time sequencing.
- Usually have near complete receptive language about 18 months.
- Separation anxiety is common and can be intense during disequilibrium.

2-2.5 Years

Disequilibrium is 28 - 33 months

- Two year-olds are emotionally comfortable, content and affectionate.
- Two and a half year olds are intense, explosive, rigid and demanding.
- Sameness and rituals are extremely important. Age of necessary predictability.
- Live in the present and gauge time by daily events.
- Tire and frustrate easily.
- Increased tension outlets such as thumb sucking, tantrums and stuttering (normal non fluency).

- Play is progressively more uncooperative, aggressive and still primarily parallel.
- Become progressively more possessive until three years old.
- Sharp increase in expressive language (from as few as five to 200 - 300-word vocabulary).
- One out of five good meals and eating "jags" are normal, especially during disequilibrium.
- Separation anxiety escalates, especially during disequilibrium.

3-3.5 Years

- 3 even-tempered/ 3.5 difficult.
- Highly oppositional (sets up nothing pleases me situations).
- Refuse to obey.
- Talk a lot.
- Common to have imaginary friends.
- Begin to blame others/ imaginary friends (lie?).
- Beginning of fearful period (dark, animals, Mom/ Dad leaving especially at night).
- Bossy and demanding.
- Can stutter, tremble, stumbling during disequilibrium when they are 3 and a half.
- Vigorous emotions (cry, inconsolable, wet pants).
- Friends are extremely important and are now cooperative in play.
- Mothers are the major focus of emotional struggles (better for someone else).

4-4.5 Years

- Generally expansive (silly, energetic, ridiculous, out of bounds, laugh wildly, loud).
- Love a lot/ hate a lot.
- Physically assertive to aggressive.
- Verbally aggressive ("make me", "I will cut your head off").
- Easily upset (stomachs common).
- Tension outlets (increase in genital fondling & masturbation).
- Nightmares common.
- Loves friends and generally cooperative.

5-5.5 Years

- Want to be good, mean to be good.
- Positive outlook on life.
- Self-limiting.
- Adore mothers, but if something goes wrong.
- At five and a half - brash, readiness to disobey.
- Dawdling - powerful form of defying.
- Beginning of a tantrum age.
- Headaches, stomachaches, feet hurt, etc. is common.
- Tension outlets are chewing on clothing, biting on pencils and hands in their mouth again.
- Love and want to please mothers best.
- Proud of fathers.
- Cherish grandparent.
- Common to have bad dreams.
- Bedwetting at night is common and normal.
- Capable but not always willing to be independent (dressing, eating, bathing).

6-6.5 Years

- Adore mothers - see them as omnipotent.
- Want to be first and best.
- Always want to win.
- "Smart" talk is developmental hallmark.
- Anxious and doesn't deal well with criticism.
- Sensitive emotionally.
- Reactive to physical pain.
- Intense tantrums (often physical again).
- Communicable diseases are high.
- Tension outlets are nail biting, nose picking, wiggling.
- Baths and hair washing are resisted.
- Eat painfully slow and table manners are outrageous.
- As they get closer to 7 they are more kind, friendly and become more withdrawn.

7 Years

- Withdrawn/ melancholy/ moody.
- Believe people in their lives are mean, hateful and picking on them.
- Fear people don't like them.
- Great worriers about everything.
- Intense age of fear.
- They have "all the bad luck".
- Easily disappointed.
- Retreat and their own space is important.
- Sensitive about their bodies and don't like to be touched.
- Perfectionistic.
- Conflicts still chiefly with mothers.
- Temporarily less need for companionship.

8 Years

- Outgoing, lively and high energy levels.
- "Speedy" - move fast, work fast, zip through school papers.
- Extremely sensitive to perceived criticism.
- Love to talk.
- Relationships with parents and friends are very important.
- How others feel about them is significant.
- Performance is mediocre and then believe others' standards are too high.
- High need for praise and try negative statements to elicit compliments.
- Very nosy!!!

9 Years

- Behavior is uneven and unpredictable.
- Very important to do things in their own way, own time, own direction.
- Will power is very strong.
- Anxious, withdrawn, less certain.
- Perfectionism is predominant.
- High need for external praise.
- Socially they are extremely critical as well as self-critical.

- Very much into realism.
- Complaining is common.
- "Fairness" is extremely important.
- Impatient and very quick to anger.
- Very loyal and devoted to friends.

10 Years

- Compliant, friendly and enjoyable.
- Predictable and consistent.
- Less fearful - specific fears are becoming sick, heights, sinister people, any form of "failure at school".
- Fairly relaxed and confident.
- Dislike any conflict. Don't like to have fights with parents or parents fighting.
- Moving to a new home is challenging.
- Can get easily overwhelmed with home or school responsibilities.
- Sexuality: "puppy love", same sex play, smutty jokes, drawings.

11 Years

- Most oppositional year of development since age 3.
- Highly contrary.
- Little willingness to cooperate.
- Quick to criticize.
- Experts at "baiting" adults especially mothers.
- Violent verbally and physically (hit, kick, swear, slam doors).
- Humor is smutty and insulting.
- Friendships are extremely important but conflicts are common.
- Sick and fatigued are pronounced.
- Tics are developmental (blinking, sniffing, grimaces, peculiar smiles).
- Have trouble going to sleep and getting up.
- Hate to sleep alone (last year usually want to sleep with parents).
- Cry easily and often.
- Exhibit emotional extremes (happy, sad, angry).

- Fearful of being alone, pain and infections.
- Intense age of worry.
- Girls are especially sensitive to getting feelings hurt by fathers.
- Very competitive.

12 Years

- Comfortable, secure and confident.
- Benevolent about people's negative behavior.
- Family relationships are smooth.
- More detached from parents and willing to let them lead their own lives.
- Like to be with peers more than family.
- Friendships are more harmonious and a source of support.
- Great sense of humor, although still can be smutty or insulting.
- They tire and collapse easily and recovery is difficult.
- Nervous tics are mostly with fatigue (clearing throats, blinking, stuttering).
- Increased interest in sex.
- Fear of the dark but generally bedtimes peaceful.
- Anger is still a challenge.
- Affection towards adults is private.

13 Years

- Extremely sensitive in nature.
- Much more introspective and withdrawn (very active in thought).
- Sharp, sharp, relentless criticism of mothers as a total person.
- Not good natured.
- Secret, pessimistic, sullen and morose.
- Sadness can be intense and they cry privately.
- Huge worriers - about everything!
- Large percentage of both males and females say they or their friends smoke pot.
- Many say they have tried drinking alcohol.
- Lots of complaints of stomach and chest pains.
- Feel strongly misunderstood by most adults.

14 Years

- Lots of vigor, energy and excitement.
- Friends are the focus of their lives.
- Critical of mothers and fathers now; easily embarrassed by them now.
- Great health.
- Girls generally have full height and development.
- Period of most rapid growth for boys.
- More joyous, content, full of promise.
- Still common to have short explosive outbursts.
- Not worriers and very open about their feelings.
- Girls tend to have more problems with their mothers.

15 – 18 Years

Defined as adolescent until 25 years

- Executive function is still not completely developed.
- Parental monitoring is still necessary, particularly 15 and 16.
- Parent child conflicts can be intense at 15 and 16.
- Parent child conflicts are generally minor but consist of bickering at 17 and older.
- Significant egocentrism and imaginary audience still active in adolescent thinking and risk taking.
- Power sharing in decision making leads to more self-governing and warmer family relationships.
- Think more abstractly and focus on social concerns and justice (beginning of "righteous age").
- Relationships with peers are stable and are their major source of support (often about 20 hours a week together).
- Much more introspective and self evaluating.
- Want parents to really listen to them and validate their sense of identity.

Checkpoint

Read each question or statement and select the best answer from the options available. Check your answers on page 61.

- 1. When gathering information, it is important to talk to the child/minor about their parent's substance use or substance use disorder.**
 - a. True
 - b. False
- 2. What should a GAL do if a minor has a mental health disorder?**
 - a. Contact the minor's provider (counselor, psychologist, psychiatrist) for information about the child's mental health.
 - b. Obtain consent for a child over the age of 13 to access his or her mental health information.
 - c. Take immediate action to address crisis situations.
 - d. All answers are correct.
- 3. In investigating a case where domestic violence is suspected, it is important for the GAL to understand, and be able to identify, patterns of abusive and violent behaviors.**
 - a. True
 - b. False
- 4. If allegations of abuse or neglect are at issue in a case, DCYF records will often contain information relevant to a GAL investigation. Within DCYF records, a GAL should look for historical patterns of abuse and neglect?**
 - a. True
 - b. False
- 5. Trauma may make a child feel emotionally overwhelmed, and that can interfere with age-appropriate self-regulation. What might a sign of trauma include?**
 - a. Trauma can be stored in the body in the form of physical tension or health complaints.
 - b. Children may exhibit over-controlled or under-controlled behavior to counteract feelings of helplessness.
 - c. Children may have maladaptive coping strategies that can lead to behaviors such as sleeping or eating problems, irritability, acting out, emotional detachment, hyper-vigilance, depression, anxiety, exaggerated response, etc.
 - d. All answers are correct.
- 6. Children develop in areas of cognitive, language, social and emotional and physical.**
 - a. True
 - b. False

Checkpoint Answers

Lesson 1

1. D | 2. C | 3. A | 4. C | 5. B | 6. C | 7. A

Lesson 2

1. B | 2. B | 3. B | 4. A | 5. D | 6. A

Lesson 3

1. D | 2. A | 3. B | 4. A

Lesson 4

1. B | 2. A | 3. B | 4. D

Lesson 5

1. A | 2. A | 3. D | 4. D

Lesson 6

1. B | 2. D | 3. A | 4. A | 5. D | 6. A

References

Chapter 11.130 RCW Uniform Guardianship, Conservatorship and other Protective Arrangements Act
<https://app.leg.wa.gov/RCW/default.aspx?cite=11.130>

11.130.001 Intent
<https://app.leg.wa.gov/RCW/default.aspx?cite=11.130.001>

11.130.075 Guardian ad litem
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.075>

11.130.080 Request for notice
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.080>

11.130.185 Basis for appointment of guardian for minor
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.085>

11.130.195 (4) Notice of hearing for appointment of guardian for minor
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.195>

11.130.220 Standby guardian for minor
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.220>

11.130.605 (7) Appointment and role of court visitor
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.605>

GDN M409 Form: Order Appointing Guardian ad Litem or Court Visitor
<https://www.courts.wa.gov/forms/documents/GDN%20M%20409%20Order%20Appointing%20GAL%20or%20CV%20for%20a%20Child.pdf>

11.130.190(1)
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.190>

11.130.190(2)
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.190>

11.130.150
<http://app.leg.wa.gov/RCW/default.aspx?cite=11.130.150>

GALR2
https://www.courts.wa.gov/court_rules/pdf/GALR/SUP_GALR_02_00_00.pdf

CourtRules
https://www.courts.wa.gov/court_rules/?fa=court_rules.localsupbycrt

Sogie Handbook
https://www.health.ny.gov/prevention/sexual_violence/docs/sogie_handbook.pdf

LGBT Health
<https://www.cdc.gov/lgbthealth/youth.htm>

Odyssey Portal - Washington Courts Online Case Search
<https://odysseyportal.courts.wa.gov/odyportal>

Washington State Title 26 Family Law Guardian Ad Litem Guidebook, 2008
<https://www.courts.wa.gov/content/manuals/domviol/appendix.pdf>

26.09.004(2)
<https://app.leg.wa.gov/rcw/default.aspx?cite=26.09.004>

9.94A.030 Definitions
<https://app.leg.wa.gov/rcw/default.aspx?cite=9.94A.030>

11.130.010 (10, 12, 18) Definitions
<https://app.leg.wa.gov/RCW/default.aspx?cite=11.130.010>



Transforming lives

DSHS 22-1942 (9/24)