

# New Local Guardianship Rules

Effective September 1, 2023

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## LOCAL GUARDIANSHIP RULES

### LGuR 1 MINOR GUARDIANSHIP PROCEEDINGS

**(a) Proceedings Pending Final Hearing.**

(1) *Court's Automatic Order.* The court shall automatically issue an order setting a Status hearing, Instructions and Temporary Restrictions upon filing of the following cases and the Petitioner shall ensure service on all persons entitled to notice:

(A) Upon filing of a Summons (Form GDN M 001), Minor Guardianship Petition (Form GDN M 102) file, and Declaration Explaining Reasons for Minor Guardianship (GDN M 105) , filed under RCW 11.130.190 (and/or Emergency Minor Guardianship Petition GDN M 202);

(B) Notice of Hearing about Terminating or Changing a Minor Guardianship (GDN M 501) and Petition to Terminate or Change Minor Guardianship or Non-Parent Custody Order; and

(C) Any action related to relocation of a child subject to a minor guardianship case.

(2) *Immediate emergency guardianship.* If immediate emergency guardianship is requested, the Petitioner shall file a Motion for an Immediate Restraining Order – Emergency Guardianship and Restraining Order (GDN M 204), which shall be heard on the ex-parte docket and, if granted by way of Immediate Minor Guardianship Order and Hearing Notice (GDN M 205), shall be scheduled for hearing within five court days.

(3) *At Filing.* At the time the Petition is filed, the Petitioner shall:

(A) File a motion for DCYF Order (GDN M 404) and proposed Order to DCYF to Release CPS information (GDN 405) listing the names and dates of birth for the Petitioner (proposed guardian) and adult members of the Petitioners household.

(B) File a proposed Confirmation of Judicial Information System Review by Court, listing the names and dates of birth for the proposed guardian and adult members of the proposed guardian's household.

(C) File a coversheet (GDN M 407) attached to a criminal history background check through the Washington State Patrol for the proposed guardian and all members of the household over the age of 16.

- (D) Present for ex-parte a proposed Order Appointing Court Visitor if the Petition involves a minor age 12 years or older.
- (4) *Status Hearing*. When an action is commenced, a hearing shall be set no sooner than 30 days on the status of the petition. The purpose of the status hearing is to determine if all parties have received notice, if the Petition is contested, if indigent parents have been appointed counsel, if court visitor/guardian ad litem is needed, and if ICWA applies. The court may also consider any motions that are timely filed, or set a time for hearing on motions.
- (5) *Motions While Case is Pending* shall be filed at least seven court days in advance.
- (A) All motions, supporting declarations, and other supporting documents shall consist of no more than 10 pages.
- (B) Responses to motions, supporting declarations, and other supporting documents shall consist of no more than 10 pages and shall be filed four court days in advance of the hearing.
- (C) Reply shall be no more than five pages and filed by two court days before the hearing.
- (D) Page restrictions do not apply to guardian ad litem/court visitor reports, financial information, school or Child Protective Services records.
- (6) *Appointment of Attorney for Parent*. If a parent believes that he or she meets the indigency requirements, an application for appointment of attorney can be made after the filing of the Petition, which may be presented ex-parte. Financial information to support the application may be requested by the court at any time.
- (7) *Appointment of Attorney for Child*. A child 12 years and older may request an attorney at any time, which can be made ex-parte.
- (8) *Parent-Child Contact While Petition Is Pending*. While a Petition for Guardianship is pending, the court may order parent child visitation consistent with the best interests of the child, including if the relationship should be limited or restricted under RCW 26.09.191; and which may include decision making regarding the minor's health care, education, or access to records for the child.
- (9) *Child Support*. The Petition for the appoint or modification of a minor guardianship may request child support pursuant to chapter 26.19 RCW. Current family law forms shall be used, including the child support worksheet.
- (10) *Restraining Orders, Orders for Protection, and Anti-Harassment Orders*. A Petition for the appointment of Minor guardianship may request restraining orders pursuant to RCW 11.130.257. Civil protection orders may be requested by filing a separate action in accordance with RCW 7.105. Any hearing involving a minor who is the subject of guardianship case shall be heard on the minor guardianship docket.
- (11) *Contested Hearing*. If the Petition is contested, the court will direct the contested hearing to be scheduled for a timely setting provided by the court administrator.
- (12) *Agreed/Default Final Orders*. If a minor guardianship proceeding is agreed or can be final by default, the final orders may be presented ex-parte.
- (13) *Non-Parent Custody cases*. All petitions for modification of existing Title 26 nonparental custody orders or for modification of Title 11 minor guardianships shall be initiated by filing the GDN M 502 form along with a copy of the order proposed to be modified. If the petition is to modify a Title 26 nonparental custody order, the clerk shall issue a new Title 11 case number. If

the petition is to modify a Yakima County Title 11 minor guardianship, the petition to modify shall be filed under the existing case number.

**(b) Court Visitors and Guardians ad Litem.** The court shall maintain a list of qualified persons willing to be appointed as a court visitor or guardian ad litem for minor guardianship cases consistent with the statutory requirement of chapter 11.130 RCW.

[Adopted December 3, 2020, as an emergency rule effective January 1, 2021; April 1, 2021; July 1, 2021; Amended and adopted as a permanent rule September 1, 2021; The prior rule was deleted and this rule adopted effective September 1, 2023.]

## **LGuR 2 GUARDIANS AD LITEM AND COURT VISITORS**

**(a) Registry Administration.**

- (1) The court shall maintain and administer guardian ad litem and court visitor registry for Minor Guardianships/Conservatorships/Protective Arrangements.
- (2) The court shall maintain the application form and background information records pertaining to each person listed on a registry. Persons listed on a registry or registries shall update information required by this rule by January 1 every year.
- (3) The application forms as described in section (b), curriculum vitae, certificate of attendance at training, and guardianship certificates of qualification under [Title 11 RCW](#) shall be available for public review.
- (4) All guardians ad litem and court visitors on the registry shall be required to complete mandatory training. The court shall periodically sponsor or approve training programs which registry applicants shall be required to attend to maintain and improve their level of proficiency.
- (5) Each registry shall be continuously open for new applications and persons applying shall be notified of their placement on the registry and the date thereof.
- (6) The court may impose an application processing fee and/or charge a fee for the training programs.

**(b) Requirements for Listing on Registries.**

- (1) *Education and experience requirements.*
  - (A) Attorneys: Member of the Washington State Bar Association in good standing and with relevant experience.
  - (B) Non-attorneys: Bachelor's degree in relevant subject area and applicable professional experience in the following: working with families and children, children affected by trauma, including abuse, neglect, domestic violence, substance abuse, etc.
- (2) *Application Process.* Each application shall be accompanied by the following:
  - (A) Copy of the certificate evidencing successful completion of the current training required for the area of guardian ad litem practice or court visitor.
  - (B) Application and fee allowing the court to obtain a current Washington State Patrol Certificate regarding criminal history.

- (C) Curriculum vitae, showing training, work and professional or personal experience in or related to the field that would assist in the performance and completion of guardian ad litem duties and level of formal education.
- (D) Signed release of information directed to all professional regulatory bodies which have licensed or supervised the applicant within the last 10 years.
- (E) Certificate of Qualification for guardians ad litem and court visitors seeking appointment under [Title 11 RCW](#).
- (F) Description of the nature, status and outcome of any professional complaints, investigations or disciplinary actions, lawsuits or professional liability claims, and any order for removal of the guardian ad litem or court visitor prior to completion of the guardian ad litem's or court visitor's duties.
- (G) Description of any claims, or litigation that has been commenced, involving allegations of improper fee charges, charges of fraud, theft or other forms of dishonesty or professional malpractice or misconduct.
- (H) Description of fees charged.
- (I) If the applicant has previously been admitted to a registry in this or any other county, the applicant shall provide:
  - (1) The number of appointments as a guardian ad litem or court visitor and the county or counties of appointment.
  - (2) The number of years' experience as a guardian ad litem or court visitor.
  - (3) The names of any counties in which the person was removed from a guardian ad litem or court visitor registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court removed the person for cause.
- (3) The applicant shall be of high moral character, and shall not have any of the following:
  - (A) Conviction of a felony or of a crime involving theft, or dishonesty;
  - (B) A professional certification or license suspension or revocation; or
  - (C) Pending investigations or actions for any of the above.

**(c) Appointment of Guardian ad Litem or Court Visitor.**

- (1) When the need arises for the appointment of a guardian ad litem or court visitor in a case involving a subject area for which there is a registry, the court shall appoint a person from the registry unless exceptional circumstances are found and findings are entered supporting appointment of a person not listed on the registry.
- (2) Appointments from the registries shall be made in the exercise of the court's sound discretion. The court may, but is not obligated to, appoint a person whom all the parties have stipulated to serve as guardian ad litem or court visitor. Agreement of all parties will not suffice when one or more parties is alleged to be under a legal disability.
- (3) In making appointments from a registry, among other factors, the court will consider the facts of the case, and the skills, experience, and knowledge of persons on the registry.
- (4) Guardians ad litem and court visitors shall be appointed from the registry in a manner which, to the extent possible, equalizes the workload among persons on the registries. Guardians ad litem and court visitors shall periodically notify the court of their current caseload, and shall promptly notify the court of any temporary unavailability to serve.
- (5) Guardians ad litem and court visitors may temporarily decline appointments due to their workloads. However, each guardian ad litem and court visitor must accept a minimum of

one appointment annually. Any guardian ad litem or court visitor suspended for failure to accept a minimum of one annual appointment may be reinstated by the Presiding Judge.

**(d) Retention on Registry/Grievance Procedures.**

(1) A person shall remain on the registry unless the person fails to maintain current application and training requirements, the person notifies the registry of his/her desire to be removed from the registry, or the person is removed or suspended as provided herein.

(2) Complaints regarding a guardian ad litem or court visitor shall be directed to the Court Administrator. All complaints shall be in writing on a form prescribed by the court and shall bear the name, signature and address of the complainant. A complaint must be filed within one year from the date of the acts complained of.

(3) Complaints shall be forwarded to the presiding judge or his/her designee(s) and shall be processed as follows:

(A) If the complaint related to an on-going case, the complainant shall be advised that the complaint may be addressed only in the case at bar, either by seeking the removal of the guardian ad litem/court visitor or by contesting the information contained in the guardian ad litem's or court visitor's report or testimony. Such complaints shall be processed in a manner which assures that the trial judge remains uninformed of the complaint. This process shall be completed in 25 days.

(B) If the complaint relates to a case in which final orders have been entered, the presiding judge or his/her designee(s), shall review the complaint and either:

(1) Make a finding that the complaint has no merit on its face and so inform the complainant in writing; or

(2) Make a finding that the complaint may have merit and require the guardian ad litem or court visitor to provide a written response within 10 business days. The guardian ad litem or court visitor shall be provided with a copy of the complaint. The guardian ad litem's or court visitor's response to the complaint shall be reviewed and such additional investigation as deemed necessary shall be conducted. Findings shall be made as to whether and on what basis the complaint has merit, and such findings shall be forwarded to the guardian ad litem/court visitor and complainant. If a complaint is found to have merit, the guardian ad litem or court visitor may be admonished, reprimanded, referred for additional training, or suspended or removed from the registry. This process shall be completed within 60 days. If the guardian ad litem or court visitor is removed or suspended, an order shall be signed.

(4) Complaints shall be confidential unless they are deemed to have merit. Findings regarding complaints determined to have merit shall be made part of the guardian ad litem's or court visitor's file and shall be made available upon request, provided, however, confidential information regarding the parties shall not be made available.

(5) If a guardian ad litem or court visitor is removed from the registry pursuant to disposition of a grievance under this rule, the registry manager shall send notice of such removal to the Administrative Office of the Courts (AOC).

**(e) Payment of Guardians ad Litem and Court Visitor.**

(2) In [Title 11 RCW](#) matters, the court shall set the hourly rate and maximum amount in the order appointing the guardian ad litem or court visitor. The fee may be charged to the parties if the court determines that one or more parties are financially able.

(3) Guardians ad litem and court visitors paid at public expense shall accept compensation provided under the court's administrative order regarding such payment.

**(f) Application of Washington's Superior Court Guardian ad Litem Rules to Court Visitors.**

(1) Unless otherwise provided by statute, this court's local court rules, or orders entered in individual cases, Rules 2, 3, and 4(a) through 4(g) of the [Superior Court Guardian ad Litem Rules \(GALR\)](#) shall apply to court visitors.

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