

NOTICE OF COMMENT PERIOD

The Nebraska Supreme Court is considering proposed rules that pertain to practice standards, training requirements, and a reporting form for guardians ad litem who represent parents in juvenile court. The Nebraska Supreme Court has directed that the proposed rules be published for a period of public comment.

The Nebraska Supreme Court invites interested persons to comment on the proposed rules. Anyone desiring to comment should do so in writing to the office of the Clerk of the Supreme Court and Court of Appeals, P.O. Box 98910, Lincoln, Nebraska 68509-8910, or via email to joshua.shasserre@nejudicial.gov, with the proposed rule identified in the subject line, no later than May 1, 2026.

The full text of the proposed rules is available below, or a paper copy may be obtained by telephoning the office of the Clerk of the Supreme Court and Court of Appeals at (402) 471-3731.

Practice Standards for Guardians Ad Litem for Parents in Juvenile Court Proceedings.

(A) Purpose.

The purpose of these practice standards is to ensure that the best interests of parents in dependency and abuse/neglect proceedings initiated under the Nebraska Juvenile Code are effectively protected by their court-appointed guardians ad litem.

(B) Appointment.

(1) In accordance with the Nebraska Juvenile Code:

(a) The appointment of a guardian ad litem for a parent is *mandatory* when:

(i) Termination of that parent’s rights is sought pursuant to Neb. Rev. Stat. § 42-292(5)¹;

(ii) The parent is a juvenile.²

(b) The appointment of a guardian ad litem for a parent is *discretionary* when deemed “necessary or desirable by the court.”³

(2) The person appointed to serve as the guardian ad litem for a parent shall be an attorney at law in light of the fact that the guardian ad litem is authorized to discharge certain attorney functions as described in § D-2 below.

(3) When feasible, the duties of a guardian ad litem should be personal to the appointed lawyer and should not be delegated to another person or lawyer.

(C) Role of Guardian Ad Litem for a Parent.

(1) The role of the guardian ad litem for the parent is to protect the parent’s best interests in the context of the juvenile proceeding. In so doing, the guardian ad litem for the parent shall make an independent assessment of the parent’s best interests, by considering all available information and resources. The guardian ad

¹ Neb. Rev. Stat. § 43-292.01.

² Neb. Rev. Stat. § 43-272(2).

³ Neb. Rev. Stat. § 43-292.01.

litem's determination as to best interests is not required to be consistent with any preferences expressed by the parent or counsel for the parent.

- (2) To that end, the guardian ad litem for a parent shall conduct an independent investigation of the facts of the case, learn where the welfare of his or her ward lies, and report these facts to the court at every review hearing.
- (3) Upon making such determination, the guardian ad litem shall make such recommendations to the court and shall take the necessary actions to advocate for and protect the best interests of the parent.
- (4) The role of a guardian ad litem for a parent is *not* coextensive with that of the parent's defense attorney, or the prosecution, or any guardian ad litem or legal counsel for a child.⁴ Therefore, the guardian ad litem for the parent should act independently of all other legal parties in the case.
- (5) There is no attorney-client privilege between the guardian ad litem for a parent and the parent.

(D) Authority of Guardian Ad Litem for a Parent.

(1) *Limit of authority.*

The authority of a guardian ad litem for a parent is limited to the context of the juvenile proceeding in which the guardian ad litem has been appointed, and does not extend to any other tribunal.⁵

(2) *Right of access to information and to the parent.*

(a) The guardian ad litem is entitled to receive and review all pleadings, notices, and orders of the court filed in the proceeding to the same extent as any other attorney in the case, and should make reasonable efforts to obtain complete copies of the same.

(b) The guardian ad litem is entitled to receive copies of all case plans and court reports prepared by the Nebraska Department of Health and Human Services, the Nebraska Foster Care Review Office, and any Court Appointed Special Advocate (CASA), as well as reports, summaries, evaluations, records,

⁴ Where an attorney has been appointed to represent the legal interests of the parent, the attorney does not serve as the guardian ad litem for the parent, and vice-versa.

⁵ In re Guardianship of Jonas, 211 Neb. 397, 318 N.W.2d 867 (1982); In re Interest of Brittany S., 12 Neb. App. 208, 6701 N.W.2d 465 (2002). See, also, Neb. Const., art. V, § 27; In re Interest of Jordon B., 312 Neb. 827, 981 N.W.2d 242 (2022).

letters, and documents prepared by any other provider which the guardian ad litem deems relevant to the best interests of the parent represented by the guardian ad litem. Where these documents are not provided as a matter of course to the guardian ad litem, they shall be provided upon the request of the guardian ad litem.

- (c) The guardian ad litem for the parent shall also have the right to (1) obtain information from all professionals and service providers, including, but not limited to, verbal communications and written reports, summaries, opinions, and evaluations, and information regarding the parent; and (2) to receive notice of and participate in all conferences, staffings or team meetings, and hearings relating to any matter which in the opinion of the guardian ad litem is relevant to, or which affects, the best interests of the parent, including but not limited to the parent's physical or mental or behavioral health.
- (d) The guardian ad litem for the parent is authorized to communicate with and respond to inquiries for information regarding the parent made by the Nebraska Foster Care Review Office, the Department of Health and Human Services case manager, or CASA.
- (f) The court should facilitate the guardian ad litem's authority to obtain information regarding the parent by including the following language, or language substantially similar thereto, in its initial order of appointment of the guardian ad litem:

"The guardian ad litem for the parent appointed herein by this Court shall have full legal authority to obtain all information which relates to the above-named parent.

"To that end, the guardian ad litem for the parent is hereby authorized by this Court to communicate verbally or in writing with any agency, organization, person, or institution, including, but not limited to, any school personnel, counselor, or drug or alcohol treatment provider; or police department or other law enforcement agency; any probation, parole, or corrections officer; any physician, psychiatrist, psychologist, Board Certified Behavioral Analyst (BCBA), licensed behavior analyst, licensed behavior analyst pharmacist, therapist, nurse, or mental or behavioral health care provider; or any hospital, clinic, group home, treatment group home, residential or mental health treatment facility, or youth rehabilitation treatment center; any social worker, case manager, or social welfare agency, including the Nebraska Department of Health and Human Services and its employees and administrators; any person

or agency or institution charged with supervising visitation; or any family member, guardian, foster parent, or any other person.

"The guardian ad litem for the parent is further hereby authorized to obtain from all persons, organizations, or entities, including, but not limited to, those described in the paragraph above, all information, including, but not limited to, the inspection of, and obtaining of complete copies of records, reports, summaries, evaluations, correspondence, written documents, or other information, orally or in any media form, which relate to the above-named juvenile even if such information concerns his or her parents, or any other person or any situation that the guardian ad litem deems necessary in order to properly represent the parent's interests.

"The guardian ad litem for the parent is authorized to and shall take the steps necessary to obtain all documents that have not been provided, via subpoena or other discovery procedures."

(3) Right of Participation in the Proceedings.

(a) The guardian ad litem for a parent is authorized to participate fully in all proceedings to terminate the rights of the parent, regardless of the statutory bases.⁶ This authority includes the right to:

- (i) Conduct discovery;
- (ii) Present evidence, including the calling and cross-examination of witnesses;
- (iii) Filing and litigating motions relating to the best interests of the parent.

(b) The guardian ad litem for a parent may testify to the extent allowed by the Nebraska Rules of Professional Conduct.

(c) The guardian ad litem for a parent is authorized to initiate and/or participate in an appeal on behalf of a parent regarding any errors that impact the best interests of the parent.

(E) Duties of Guardian Ad Litem for Parent.

(1) Training.

⁶ In re Interest of D.S., 236 Neb. 413, 461 N.W.2d 415 (1990); In re Interest of Emerald C. et al., 19 Neb. App. 608, 810 N.W.2d 750 (2012).

Any lawyer who serves as a guardian ad litem for a parent should fulfill the training requirements described in the Nebraska Supreme Court Rule Regarding Guardian Ad Litem Training for Guardians ad Litem for Parents.

(2) *Consultation with the parent.*

- (a) The phrase "consultation," generally means meeting in person with the parent, unless prohibited or made impracticable by exceptional circumstances.
- (b) The guardian ad litem should consult with the parent within two weeks of appointment by the court and at least once every six months thereafter.
- (c) In addition, when possible, the guardian ad litem should consult with the parent when:
 - (i) The parent requests that the guardian ad litem meet with him or her;
 - (ii) The guardian ad litem has received notification of any emergency, or other significant event or change in circumstances affecting the parent's best interests;
 - (iii) Prior to any hearing at which substantive issues affecting the parent's best interests are anticipated to be addressed by the court.
- (d) The guardian ad litem for the parent should make reasonable efforts to communicate to the parent the recommendations that he or she will make to the court at the next hearing.
- (e) Where an unreasonable geographical distance is involved between the location of the parent and his or her guardian ad litem, the guardian ad litem should explore the possibility of obtaining from the court an advance determination that the court will arrange for the payment or reimbursement of the guardian ad litem's reasonable expenses incurred in connection with the travel to meet with the parent.
- (f) "Exceptional circumstances" which could impair the ability to consult with the parent may include, but are not limited to the inability to ascertain the whereabouts of the parent, as well as concerns for physical safety. Where such exceptional circumstances exist, the guardian ad litem should attempt consultation with the parent by other reasonable means, including, but not limited to, telephonic means, assuming that the parent possesses sufficient capacity or ability to participate in such means of communication and there are

no other barriers preventing such communication. Where consultation by telephonic means is also not feasible, the guardian ad litem should seek direction from the court as to any other acceptable method by which to accomplish such consultation with the parent.

(3) *Duty to provide quality service.*

A guardian ad litem for a parent should not accept workloads or caseloads that by reason of their excessive size or demands, interfere with or lead to the breach of the professional obligations or standards required to be met by a guardian ad litem for a parent as imposed by statute, court rule, caselaw, or by these practice standards.

(4) *Inquiry and consultation with others.*

- (a) The guardian ad litem should make inquiry of the Departmental caseworker, and any other person directly involved with the parent such as medical and mental or behavioral health professionals who might have knowledge about the case or the condition, needs and diagnoses, if any, of the parent. The guardian ad litem should also make inquiry of any other persons who have knowledge or information relevant to the parent's best interests. The guardian ad litem may obtain such information through the means of direct inquiry, interview, or the discovery process.
- (b) The guardian ad litem for a parent has a duty to read and comprehend the court reports prepared by the Nebraska Department of Health and Human Services, the Nebraska Foster Care Review Office, the CASA volunteer, and from all other persons or providers assigned to the case who prepare such reports to be presented to the court.

(5) *Participation in court proceedings.*

- (a) The guardian ad litem for the parent shall attend all hearings unless expressly excused by the court.
- (b) Where the guardian ad litem is unable or unavailable to attend a hearing due to reasons such as personal illness, emergency, involvement in another court hearing, or absence from the jurisdiction, such guardian ad litem may make proper arrangements for another attorney who has completed the educational requirements to serve as a guardian ad litem for a parent to attend the hearing, but only as long as the hearing is not anticipated to be a contested evidentiary hearing.

- (c) The guardian ad litem for the parent should initiate and /or participate fully in all appeals from orders of the juvenile court which impact or are likely to impact the best interests of the parent.
- (6) *Duty to report and make recommendations to court.*
 - (a) The guardian ad litem shall submit a written report to the court and to all parties regarding any matter that affects or is likely to affect the best interests of the parent, including recommendations, at every dispositional hearing and review hearing.
 - (b) The information contained in the report of the guardian ad litem should include, but is not limited to, the following information:
 - (i) Dates of, and description of, the type of contact and communication with the parent and with service providers;
 - (ii) Listing of documents reviewed;
 - (iii) Information regarding the parent's current situation, including but not limited to the following:
 - a] The parent's housing situation;
 - b] Whether the parent is meeting regularly or as required with their service providers, identifying each such provider and the service being provided;
 - c] The parent's source(s) of income, if any;
 - d] any known recent convictions or pending criminal or civil proceedings involving the parent that affects the best interest of the child(ren) at issue;
 - (iv) The guardian ad litem's specific concerns regarding any matters or problems which, in the opinion of the guardian ad litem, need special, further, or other attention in order to protect or facilitate the parent's best interests, including an identification of any barriers such as restrictions on daily activity that include self-care and parenting capacity.
 - (v) The guardian ad litem's assessment of the barriers in relation to the permanency objective(s), either as previously

ordered by the court or currently recommended by the Department, and whether, in the opinion of the guardian ad litem, the resolution of those barriers is likely in the reasonably near future.

- (vi) Any other factor that would be relevant to or impact the parent's best interest.

(F) Termination of Authority of Guardian Ad Litem.

- (1) The authority of the guardian ad litem for a parent shall commence upon appointment by the court and shall continue in that case until such time as the court terminates its jurisdiction over the parent.
- (2) The guardian ad litem for a parent may voluntarily withdraw from representation in any case where the guardian ad litem files a motion to withdraw, and the court, in its discretion, enters a corresponding order granting such withdrawal.
- (3) A guardian ad litem for a parent may be removed from a case by the court for cause, where the court finds that the guardian ad litem's performance is inadequate, or that the guardian ad litem has substantially failed to discharge duties or act to protect the best interests of the parent for whom the guardian ad litem was appointed, or that any other factor or circumstance prevents or substantially impairs the guardian ad litem's ability to fairly and fully discharge his or her duties. In determining whether removal of the guardian ad litem is warranted in a particular case, the court should assess the guardian ad litem's performance under the best practices imposed upon a guardian ad litem by these practice standards and under all applicable statutes, caselaw, and court rules.

(G) Compensation for Guardians Ad Litem for Parents

- (1) A guardian ad litem for a parent shall be compensated by the county in which he/she is appointed for all hours of service reasonably necessary to provide quality advocacy as documented in fee applications.
- (2) Generally, no distinction should be made between rates for services performed in and outside of court, and the same rate should be paid for any time the guardian ad litem for a parent spends traveling in fulfilling his or her obligations.

Training Requirements for Guardians ad Litem for a Parent

The Nebraska Supreme Court, through the Nebraska Supreme Court Attorney Services Division, shall develop the curriculum for the initial guardian ad litem for a parent education and provide specialized on-line training for guardians ad litem for a parent at a nominal cost. The Nebraska Supreme Court Attorney Services Division may approve the rendition of an in-the-classroom version of the initial six-hour curriculum it has developed in the event an outside vendor applies to the Nebraska Supreme Court Attorney Services Division to teach such a version of the curriculum.

The Nebraska Supreme Court Attorney Services Division shall maintain a list of attorneys who are current in their required guardian ad litem training and shall make such list available to all judges with juvenile court jurisdiction.

In addition to completing the initial six-hour course, the guardian ad litem for the parent shall also complete one-hour of annual training to maintain their certification. The Nebraska Supreme Court Attorney Services Division shall determine the course work required of the attorney subsequent to the completion of the initial course. Courses may be made available to satisfy the annual one-hour requirement through the Nebraska Supreme Court Attorney Services Division, offered at a nominal fee and hosted on its website. In addition, the Nebraska Supreme Court Attorney Services Division may approve courses for the annual one-hour requirement that are offered by outside vendors if the courses meet the curriculum requirements and standards created by the Nebraska Supreme Court Attorney Services Division.

Specialized training sessions shall provide training, information, and education regarding the role, duties, and responsibilities of a guardian ad litem for a parent, which shall include, but not be limited to, the following areas:

- (A) Overview of the Juvenile Court System.
- (B) Statutory duties and authorities, if any, or applicable practice standards.
- (C) Issues which impact or impair the functioning of families, including, but not limited to, dynamics of child abuse and neglect, substance abuse and mental health issues, poverty, employment, and housing, domestic violence, physical, psychological, and psychiatric health issues, education, and visitation and demonstration of parental skills.
- (D) Training in the techniques of gathering relevant information and resources:
 - (1) Interviewing skills;
 - (2) How to obtain and interpret reports from professionals and providers;
 - (3) Inquiry into the appropriateness of the services being provided to the parent.
- (E) Psychological aspects of the children involved, including child development issues.

(F) Permanency Planning: family preservation, reunification, adoption, guardianship, and another permanent planned living arrangement.

(G) Alternative Permanency Planning: continuing parental contact once permanency has been achieved through adoption, guardianship, or another permanent planned living arrangement.

(H) Cultural, ethnic diversity, and gender issues.

(I) Relevant state and federal statutes and case law.

(J) Indian Child Welfare Act (ICWA).

(K) Interstate Compact on the Placement of Children (ICPC).

(L) Home studies.

APPENDIX 1

IN THE SEPARATE JUVENILE/COUNTY COURT OF ____ COUNTY, NEBRASKA

THE STATE OF NEBRASKA
IN THE INTEREST OF

Case Number: *Case Number.*

Name of Juvenile(s).
JUVENILE(S).

**PARENT GUARDIAN AD
LITEM REPORT AND
RECOMMENDATIONS**

A. Information

The undersigned individual was appointed by the Court as the Guardian Ad Litem for the mother/father, _____.

Date of Report: *Date of Report.*

Date of Hearing: *Date of Hearing.*

Type of Hearing: *Type of Hearing.*

Mother: *Mother's Name.*

Father: *Father's Name.*

Legal Custodian: *Legal Custodian's Name.*

Child(ren)

| Add Line | | |
|--------------|----------------------------|-----------|
| Child's Name | Age (at time of report) | Placement |
| | | |
| | | |
| | | |
| | | |

1. CONTACT WITH PARENT SINCE LAST HEARING:

Since the date of the last hearing, if any, I have had the following contact with the parent:

| Add Line | |
|--------------------|--|
| Date(s) of Contact | Type of Contact (In-person, Phone, Other) |
| | |
| | |
| | |

2. PERSONS AND OTHER RESOURCES CONTACTED SINCE LAST HEARING:

Since the date of the last hearing, if any, I have contacted the following persons and/or other resources, including, but not limited to, caseworkers, family support workers, physicians, psychologists, therapists, counselors, teachers, parents, foster parents, relatives, independent living specialists, ICWA specialists, and representatives of CASA and the Foster Care Review Office, in an effort to learn information about the parent and family's circumstances and progress:

| Add Line | | |
|--------------------|------------------------------|----------------------|
| Date(s) of Contact | Person or Resource Contacted | Title or Agency Name |
| | | |
| | | |
| | | |
| | | |

3. DOCUMENTS, REPORTS, AND INFORMATION:

Since the date of the last hearing, if any, I have reviewed and considered the following documents as checked below:

- | | |
|--|--|
| <input type="checkbox"/> NDHHS case plan and court report | <input type="checkbox"/> Probation report |
| <input type="checkbox"/> Visitation reports | <input type="checkbox"/> Medical reports |
| <input type="checkbox"/> FCRO report | <input type="checkbox"/> CASA report |
| <input type="checkbox"/> Family support reports | <input type="checkbox"/> Therapy reports |
| <input type="checkbox"/> Evaluations/Assessments: | <input type="checkbox"/> EDN reports |
| <input type="checkbox"/> Psychological | <input type="checkbox"/> NE Educational Court reports |
| <input type="checkbox"/> Psychiatric | <input type="checkbox"/> Independent Living Transition Plan/ Proposal |
| <input type="checkbox"/> Chemical Dependency/ Substance Abuse | <input type="checkbox"/> Other: (describe below) |
| <input type="checkbox"/> Co-occurring evaluations | |

[Click or tap here to enter text.](#)

Information not yet provided or made available to the guardian ad litem:

[Click or tap here to enter text.](#)

B. Guardian Ad Litem Report to the Court

1. GUARDIAN AD LITEM NARRATIVE:

Based upon information available, the following is a comprehensive outline of the relevant information and concerns about the parent's situation, and what efforts have been made by the guardian ad litem for the parent to address the concerns:

[Click or tap here to enter text](#)

2. RECOMMENDATIONS:

Based upon my contact with the parent, review of documents, as well as communications with case professionals and others,

- Yes No As Guardian Ad Litem for the parent, I agree that reasonable efforts/active efforts have been made by the Nebraska Department of Health and Human Services for the parent to achieve the current permanency objective, as ordered by the court.

If no, please explain:

As Guardian Ad Litem for the parent, I have identified the following barriers to the permanency objective:

A. Barriers Relating to the Parent:

[Click or tap here to enter text](#)

B. Barriers Relating to Child/Children:

[Click or tap here to enter text.](#)

C. Barriers Relating to Case Management, Case Professionals, and/or Tribal Representatives:

[Click or tap here to enter text.](#)

D. Barriers Caused by Other Factors:

[Click or tap here to enter text.](#)

As Guardian Ad Litem for the parent,

I am in agreement with all the recommendations made by the Nebraska Department of Health and Human Services, as set forth in the case plan and court report.

I am in agreement with the following recommendations made by the Nebraska Department of Health and Human Services, as set forth in the case plan and court report. Please list and explain:

Click or tap here to enter text.

I am not in agreement with the following recommendation(s) made by the Nebraska Department of Health and Human Services, as set forth in the case plan and court report. Please list and explain:

Click or tap here to enter text

I have not yet received a written case plan and court report from the Nebraska Department of Health and Human Services.

In addition, I recommend the Court order the following.
Please list and explain:

Click or tap here to enter text.

Dated: Click or tap to enter a date.

Attorney Name
Guardian Ad Litem for Click or tap here to enter text., Parent

cc.

Click or tap here to enter text., Deputy County Attorney;

Click or tap here to enter text., attorney;

Click or tap here to enter text., DHHS attorney; or

Click or tap here to enter text., Guardian ad Litem for the child(ren).

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