

IN THE SUPREME COURT OF THE STATE OF KANSAS

ADMINISTRATIVE ORDER NO. 100

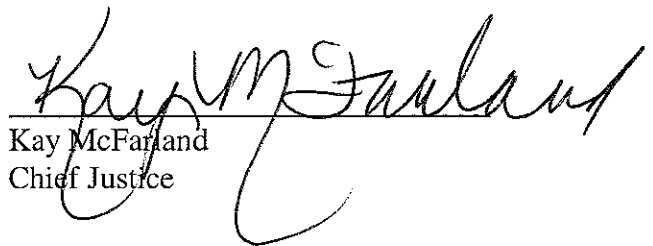
Re: Guidelines for Guardians *Ad Litem*

Whereas:

1. The Kansas Judicial Council Guardian *Ad Litem* Advisory Committee prepared proposed amendments to Supreme Court Administrative Order 100 (including a proposed form order appointing guardian *ad litem*) which were approved by the Kansas Judicial Council.
2. The amendments approved by the Judicial Council were proposed to the Supreme Court on November 28, 2001, and were approved in administrative conference by the Court the same day.

The attached order and form are hereby adopted.

BY ORDER OF THE COURT this 7<sup>th</sup> day of March 2002.

  
\_\_\_\_\_  
Kay McFarland  
Chief Justice



1 child disagrees with the guardian *ad litem*'s recommendations, the guardian *ad litem* must inform  
2 the court of the disagreement. The court may, on good cause shown, appoint an attorney to represent  
3 the child's expressed wishes. If the court appoints an attorney, that individual serves in addition to  
4 the guardian *ad litem*. The attorney must allow the child and the guardian *ad litem* to communicate  
5 with one another but may require such communications to occur in the attorney's presence.

6         3 4) Provide reports at every hearing, such reports being written or oral at the discretion of  
7 each judicial district the judge.

8         4) ~~Appear at all hearings to represent the best interests of the child. All relevant facts should~~  
9 ~~be presented to the court and the child's position, if not consistent with the determination of the~~  
10 ~~guardian *ad litem* as to best interests, shall be presented.~~

11         5) Explain the court proceedings and the role of the guardian *ad litem* in terms the child can  
12 understand.

13         6) Make recommendations for specific appropriate services for the child and the child's  
14 family.

15         7) Monitor implementation of service plans and court orders.

16         8) ~~File appropriate pleadings on behalf of the child.~~

17         9 8) Participate in prerequisite education prior to appointment as a guardian *ad litem* which  
18 consists of ~~ten (10) hours~~ not less than six (6) hours including one (1) hour of professional  
19 responsibility, and participate in annual continuing education consisting of ~~four (4) hours~~ not less  
20 than six (6) hours. Areas of education should include, but are not limited to, dynamics of abuse and  
21 neglect; roles and responsibilities; cultural awareness; communication and communication with  
22 children skills and information gathering and investigatory techniques; advocacy skills; child

1 development; mental health issues; permanence and the law; community resources; ~~court observation~~  
2 professional responsibility; special education law; substance abuse issues; school law; and the code  
3 for the care of children. Such hours of continuing education, if approved by the Continuing Legal  
4 Education Commission, shall apply to the continuing legal education requirements of Supreme Court  
5 Rule 802 and the minimum total hours annually required by that rule are not modified by these  
6 guidelines. The appointing judge or designee shall have the authority to approve the prerequisite  
7 education and continuing education not otherwise approved by the Continuing Legal Education  
8 Commission. Guardians ad litem shall be responsible for maintaining a record of their own  
9 participation in prerequisite and continuing education programs. Upon the request of the appointing  
10 judge or designee, the guardian ad litem shall be required to provide evidence of compliance with  
11 this order. Such prerequisite education may be waived by the ~~Administrative~~ appointing Judge or  
12 designee upon showing of ~~ten (10) hours of education in this field within the last three (3) years or~~  
13 ~~practice in this field during that time~~ a need for emergency temporary appointment. The educational  
14 requirements shall be completed within six (6) months of appointment. The ~~These~~ educational  
15 requirements shall not be effective for a period of six (6) months from the date ~~these guidelines are~~  
16 this order is adopted by the Supreme Court.

ORDER APPOINTING GUARDIAN AD LITEM

IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY, KANSAS  
JUDICIAL DISTRICT

In the Interest of \_\_\_\_\_

Case No. \_\_\_\_\_

ORDER APPOINTING GUARDIAN AD LITEM

NOW on this \_\_\_\_\_ day of \_\_\_\_\_, it is ordered that \_\_\_\_\_, a duly qualified practicing attorney in \_\_\_\_\_ County, Kansas, is hereby appointed as guardian ad litem for the above-named minor.

1. The guardian ad litem shall be served with copies of all pleadings and other papers filed herein. The guardian ad litem shall comply with all the guidelines of Kansas Supreme Court Administrative Order No. 100.

2. Upon presentation of a certified copy of this Order to any agency, organization, person or office, including the Clerk of this Court, any school personnel, any drug or alcohol treatment provider, any police department or other law enforcement agency, any pediatrician, psychologist, psychiatrist, hospital, mental health treatment facility or other medical or mental health care provider or any social worker or social welfare agency, the aforementioned shall be permitted to communicate orally or in writing with the guardian ad litem about any records or treatment relating to the minor child and/or the minor child's parents, and the aforementioned shall permit the guardian ad litem to inspect and copy any such records. The guardian ad litem shall maintain any information received from any such source as confidential and shall not disclose the same except in reports to the Court or as otherwise permitted by the Code for Care of Children.

3. The guardian ad litem is hereby vested by the Court with all powers, privileges and responsibilities necessary for the full and effective performance of the duties and obligations to the minor child as set forth in this Order.

\_\_\_\_\_  
Judge

July 16, 2003

IN THE SUPREME COURT OF THE STATE OF KANSAS

Amended  
Administrative Order No. 100

Guidelines for Guardians Ad Litem

The Supreme Court guidelines are recommended for the representation of children by guardians *ad litem* in cases pursuant to the Kansas Code for the Care of Children, K.S.A. 38-1501 et seq.; the Parentage Act, K.S.A. 38-1110 et seq.; and Domestic Relations, K.S.A. 60-1601 et seq. Unless departure is authorized by the presiding judge or designee for good cause shown. The appointing judge or designee should:

- 1) issue an Order appointing the guardian *ad litem* on a form substantially as attached, and
- 2) insure compliance with this Administrative Order.

A guardian *ad litem* should:

(1) Conduct an independent investigation consisting of the review of all relevant documents and records including those of social service agencies, police, courts, physicians (including mental health), and schools. Interviews either in person or by telephone with the child, parents, social workers, relatives, school personnel, court appointed special advocates (CASAs), caregivers, and others having knowledge of the facts are recommended. Continuing investigation and ongoing contact with the child are mandatory.

(2) Determine the best interests of the child by considering such factors as the child's age and sense of time; level of maturity; culture and ethnicity; degree of attachment to family members, including siblings; as well as continuity, consistency, permanency and the child's sense of belonging and identity.

(3) File appropriate pleadings on behalf of the child. Appear for and represent the best interests of the child at all hearings. All relevant facts should be presented to the court, including the child's position. If the child disagrees with the guardian *ad litem*'s recommendations, the guardian *ad litem* must inform the court of the disagreement. The court may, on good cause shown, appoint an attorney to represent the child's expressed wishes. If the court appoints an attorney for the child, that individual serves in addition to the guardian *ad litem*. The attorney must allow the child and the guardian *ad litem* to communicate with one another but may require such communications to occur in the attorney's presence.

(4) Provide reports at every hearing, such reports being written or oral at the discretion of the judge.

(4) Not submit reports and recommendations to the court, act as a witness or testify in any proceeding in which he or she serves as guardian *ad litem*, except as permitted by the exceptions to Kansas Rules of Professional Conduct 3.7(a). The guardian *ad litem* should submit the results of his or her investigation and the conclusion regarding the child's best interest in the same manner as any other lawyer presents a case on behalf of a client: by calling, examining and cross-examining witnesses, submitting and responding to other evidence, and making oral and written arguments based on the evidence that has been or is expected to be presented."

(5) Explain the court proceedings and the role of the guardian *ad litem* in terms the child can understand.

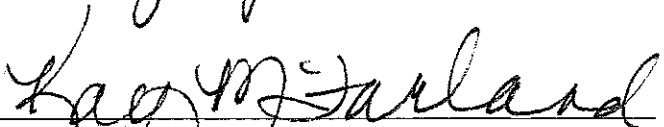
(6) Make recommendations for specific appropriate services for the child and the child's family.

(7) Monitor implementation of service plans and court orders.

(8) Participate in prerequisite education prior to appointment as a guardian *ad litem* which consists of not less than six (6) hours including one (1) hour of professional responsibility, and participate in annual continuing education consisting of not less than six (6) hours. Areas of education should include, but are not limited to, dynamics of abuse and neglect; roles and responsibilities; cultural awareness; communication and communication with children skills and information gathering and investigatory techniques; advocacy skills; child development; mental health issues; permanence and the law; community resources; professional responsibility; special education law; substance abuse issues; school law; and the code for the care of children. Such hours of continuing education, if approved by the Continuing Legal Education Commission, shall apply to the continuing legal education requirements of Supreme Court Rule 802 and the minimum total hours annually required by that rule are not modified by these guidelines. The appointing judge or designee shall have the authority to approve the prerequisite education and continuing education not otherwise approved by the Continuing Legal Education Commission. Guardians *ad litem* shall be responsible for maintaining a record of their own participation in prerequisite and continuing education programs. Upon the request of the appointing judge or designee, the guardian *ad litem* shall be required to provide evidence of compliance with this order. Such prerequisite education may be waived by the appointing Judge or designee upon showing of a need for emergency temporary appointment. The educational requirements shall be completed within six (6) months of appointment. These educational requirements shall not be effective for a period of six (6) months from the date this order is adopted by the Supreme Court. April 19, 1995.

This order shall be effective upon the date it is entered.

BY ORDER OF THE COURT this 16<sup>th</sup> day of July, 2003.

  
\_\_\_\_\_  
KAY McFARLAND  
Chief Justice



IN THE SUPREME COURT OF THE STATE OF KANSAS

Amended  
Administrative Order No. 100

Guidelines for Guardians Ad Litem

The Supreme Court guidelines are recommended for the representation of children by guardians *ad litem* in cases pursuant to the Kansas Code for the Care of Children, K.S.A. 38-1501 et seq.; the Parentage Act, K.S.A. 38-1110 et seq.; and Domestic Relations, K.S.A. 60-1601 et seq. Unless departure is authorized by the presiding judge or designee for good cause shown. The appointing judge or designee should:

- 1) issue an Order appointing the guardian *ad litem* on a form substantially as attached, and
- 2) insure compliance with this Administrative Order.

A guardian *ad litem* should:

(1) Conduct an independent investigation consisting of the review of all relevant documents and records including those of social service agencies, police, courts, physicians (including mental health), and schools. Interviews either in person or by telephone with the child, parents, social workers, relatives, school personnel, court appointed special advocates (CASAs), caregivers, and others having knowledge of the facts are recommended. Continuing investigation and ongoing contact with the child are mandatory.

(2) Determine the best interests of the child by considering such factors as the child's age and sense of time; level of maturity; culture and ethnicity; degree of attachment to family members, including siblings; as well as continuity, consistency, permanency and the child's sense of belonging and identity.

(3) File appropriate pleadings on behalf of the child. Appear for and represent the best interests of the child at all hearings. All relevant facts should be presented to the court, including the child's position. If the child disagrees with the guardian *ad litem's* recommendations, the guardian *ad litem* must inform the court of the disagreement. The court may, on good cause shown, appoint an attorney to represent the child's expressed wishes. If the court appoints an attorney for the child, that individual serves in addition to the guardian *ad litem*. The attorney must allow the child

and the guardian *ad litem* to communicate with one another but may require such communications to occur in the attorney's presence.

(4) Not submit reports and recommendations to the court, act as a witness or testify in any proceeding in which he or she serves as guardian *ad litem*, except as permitted by the exceptions to Kansas Rules of Professional Conduct 3.7(a). The guardian *ad litem* should submit the results of his or her investigation and the conclusion regarding the child's best interest in the same manner as any other lawyer presents a case on behalf of a client: by calling, examining and cross-examining witnesses, submitting and responding to other evidence, and making oral and written arguments based on the evidence that has been or is expected to be presented."

(5) Explain the court proceedings and the role of the guardian *ad litem* in terms the child can understand.

(6) Make recommendations for specific appropriate services for the child and the child's family.

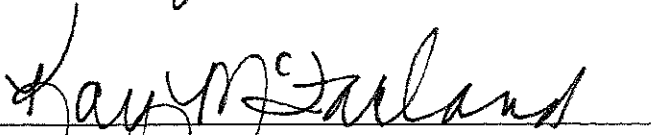
(7) Monitor implementation of service plans and court orders.

(8) Participate in prerequisite education prior to appointment as a guardian *ad litem* which consists of not less than six (6) hours including one (1) hour of professional responsibility, and participate in annual continuing education consisting of not less than six (6) hours. Areas of education should include, but are not limited to, dynamics of abuse and neglect; roles and responsibilities; cultural awareness; communication and communication with children skills and information gathering and investigatory techniques; advocacy skills; child development; mental health issues; permanence and the law; community resources; professional responsibility; special education law; substance abuse issues; school law; and the code for the care of children. Such hours of continuing education, if approved by the Continuing Legal Education Commission, shall apply to the continuing legal education requirements of Supreme Court Rule 802 and the minimum total hours annually required by that rule are not modified by these guidelines. The appointing judge or designee shall have the authority to approve the prerequisite education and continuing education not otherwise approved by the Continuing Legal Education Commission. Guardians *ad litem* shall be responsible for maintaining a record of their own participation in prerequisite and continuing education programs. Upon the request of the appointing judge or designee, the guardian *ad litem* shall be required to provide evidence of compliance with this order. Such prerequisite education may be waived by the appointing Judge or designee upon showing of a need for emergency temporary appointment. The educational

requirements shall be completed within six (6) months of appointment. These educational requirements shall not be effective for a period of six (6) months from April 19, 1995.

This order shall be effective upon the date it is entered.

BY ORDER OF THE COURT this 16<sup>th</sup> day of July 2003.

  
\_\_\_\_\_  
KAY McFARLAND  
Chief Justice