

# The Rules:

## A Review of GALR 2 for Guardians ad Litem and Child Advocates

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2021 – RULES ARE CONTINUOUSLY UPDATED; THIS DOCUMENT IS NOT INTENDED TO ENCAPSULATE ALL RULES, FOREVER. PLEASE GO TO THE ORIGINAL SOURCE FOR UPDATES.

# Why do we need Rules???

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- Rules are intended to provide guidelines and common practice for all parties in the system.
- Rules give structure.
- Rules provided boundaries for system practitioners.
- Rules provide guidelines for how/when to address problems.

# Where do I find the Rules?

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There are many rules that govern guardian ad litem. You can find the primary rules governing GALs at

GALRs (Guardian ad Litem Rules):

[https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.list&group=sup&set=GALR](https://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=sup&set=GALR)

Revised Code of Washington:

<http://app.leg.wa.gov/RCW/default.aspx?cite=13.34>

County Local Rules:

[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.local&group=superior](http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=superior)

# Purpose...

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“The purpose of these rules is to establish a **minimum set of standards** applicable to all superior court cases where the court appoints a guardian ad litem or any person to represent the best interest of a child, an alleged incapacitated person, or an adjudicated incapacitated person pursuant to Title 11, 13 or 26 RCW.”

[https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=sup&set=GALR&ruleid=supgalr1](https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=GALR&ruleid=supgalr1) (emphasis added).

# Purpose...

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Why a minimum standard?

Working with children, incapacitated persons, and persons with limitations.

These are vulnerable individuals.

We expect you to go beyond the minimum standards in order to be an effective advocate for vulnerable children.

# GUARDIAN AD LITEM RULE 2: GENERAL RESPONSIBILITIES OF GUARDIAN AD LITEM

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[http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=sup&set=GALR&ruleid=supgalr2](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=GALR&ruleid=supgalr2)

# Considerations

- Representing Best Interest vs. Advocating for a person's wishes.
- How do you make it clear to everyone involved your role?

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## *Additional Citations/References*

RCW 13.34.105(f) To represent and be an advocate for the best interests of the child.

RCW 13.34.105(h) In the case of an Indian child as defined in RCW [13.38.040](#), know, understand, and advocate the best interests of the Indian child.

## GALR 2 (a)

### Representing the Best Interests

“A guardian ad litem shall represent the best interests of the person for whom he or she is appointed.

Representation of best interests may be inconsistent with the wishes of the person whose interest the guardian ad litem represents.

The guardian ad litem 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.”

# Considerations

- Why is an independent person necessary?
- Why do you need to have an appearance of fairness and appear objective?
- To whom does this relate?
- Child, parents, foster parents, relatives, attorneys – any others?
- Don't get caught in the trap! Others in the system DO have the ability to “pick a position” and stick to it. You, as the GAL, do not. Your role is unique and special.

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## *Additional Citations/References*

RCW13.34.105(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an **independent investigation** regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties.

## GALR 2 (b) Maintaining Independence

“A guardian ad litem shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.



# Considerations

*Continued...*

- This includes interviewing a large swath of individuals (if relevant).
- This includes maintaining contact with the parents and relatives.
- This includes not sharing details of the case with anyone other than the court.
- This includes not being “buddies” with anyone.
- You might be tempted to dig in your heels on an issue. However, you must remain open to altering your recommendation based on new information that you receive. This is just one way to practice maintaining independence.

## GALR 2 (b) Maintaining Independence

“A guardian ad litem shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.”

# Considerations

*Continued...*

- Give equal time to parties – if you spend 45 minutes at the mother’s visit, spend 45 minutes at the father’s visit.
- If you contact the caregivers to see how the child is doing, be sure to call both parents to see how they see the child is doing during their time with the child.
- If you greet one party at court or at a meeting, greet all parties at court – foster parent, bio parent, SW.
- Sit with fellow VGALs or your PC at court. Sitting next to a party in the case can give the APPEARANCE of bias.

## GALR 2 (b) Maintaining Independence

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# Considerations

## What? I am subject to discipline?

- Yes, even GALs are subject to discipline if you violate rules, are unprofessional, or otherwise engage in unbecoming conduct.

## Even though I am a volunteer?

- **Yes.** Even though you are a volunteer. There must be oversight given the vulnerable population served, and in order to trust in your recommendations, the court needs to know you are following the rules in a professional manner.

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### *Additional Citations/References*

GALR 7: GRIEVANCE PROCEDURES. Each court shall promulgate rules that set out or refer to policies and procedures establishing and governing the filing, investigating, and adjudicating grievances made by or against guardians ad litem under Titles, 11, 13, and 26 RCW.

GALR 2

(c)

## Ethics and Professional Conduct

“A guardian ad litem 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 rule 7 for violation.”

# Considerations

Why is this important?

- **Things change!**

Rules change, practices change, new information surfaces on best practice, you need a refresher (because everyone does). You are advocating for the best interest of a child; you must be qualified to do so.

You generally remained qualified through your training, knowledge, and expertise.

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## *Additional Citations/References*

All programs in Washington have a minimum 12 hours per year ongoing training requirement.

## GALR 2 (d) Remain Qualified for the Registry

Unless excepted by statute or court rule, a guardian ad litem shall satisfy all training requirements and continuing education requirements developed for Titles 13 and 26 RCW guardians ad litem by the administrator of the courts ...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.

# Considerations

- Don't hide the conflict of interest or impropriety!! Tell your coordinator right away.
- The VGAL program needs to take steps to address the conflict of interest or impropriety, which include talking to all parties to see if the matter can be resolved.
- Keep in mind that this might mean your dismissal from the case and/or the program.

## GALR 2 (e)

### Avoid Conflicts of Interest

"A guardian ad litem shall avoid any actual or apparent conflict of interest or impropriety in the performance of guardian ad litem responsibilities.

A guardian ad litem shall avoid self-dealing or association from which a guardian ad litem might directly or indirectly benefit, other than for compensation as guardian ad litem.

A guardian ad litem shall take action immediately to resolve any potential conflict or impropriety.

A guardian ad litem 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.

A guardian ad litem shall not accept or maintain appointment if the performance of the duties of guardian ad litem may be materially limited by the guardian ad litem's responsibilities to another client or a third person, or by the guardian ad litem's own interests."

# Considerations

*continued*

## Examples:

- Working at the same treatment center a parent goes for treatment.
- Owning an apartment where a foster family lives.
- Having a personal relationship with the parents/foster parents/relatives on the case.
- Taking a parent out for a drink.
- Entering into a romantic relationship with anyone involved in the case.
- Selling something to anyone involved in the case or paying anyone in the case for personal services.
- Speaking poorly about the parents to anyone.
- Sharing confidential information with foster parents/relatives/others.

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# Considerations

Dependencies can become emotional. Check your emotions at the door and follow the Golden Rule.

- Do not speak or write negatively or poorly regarding **anyone** in the case. Keep your frustrations, irritations, dislikes, and feelings out of it.
- Stay focused on the facts, your behavior-based observations, and your assessment of those.

GALR 2  
(f)

## Treat Parties with Respect

“A guardian ad litem is an officer of the court and as such shall at all times treat the parties with respect, courtesy, fairness and good faith. “

# Considerations

## **You must do an independent investigation.**

- Gather first-hand information whenever possible.
- Gather information from all parties, not just the social worker or the foster parent.
- “Trust, but verify.”

## **If you don’t have time to work a case, tell your PC!**

It is better to withdraw from a case than to make recommendations without being fully informed. The court is relying on you for facts, and trusts that any recommendations are based in independently gathered fact.

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### *Additional Citations/References*

RCW 13.34.105(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child.

RCW 13.34.105(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court.

## GALR 2 (g) Be Informed

“A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties.

A guardian ad litem shall examine material information and sources of information, taking into account the positions of the parties.”



# Considerations

GALs can request an evaluation of a child, parent, or caregiver, when supported by fact. The court gets to decide if the evaluation is warranted.

GALs do not have the authority to *require* anyone to be evaluated.

GALs are also not to do a professional evaluation themselves. It is not their role as a GAL.

GALR 2  
(h)

## Requests for Evaluations

“A guardian ad litem 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.”

# Considerations

- Your information and recommendations are compiled in a report to the court.
- It is critical that this report is timely submitted. Different reports have different timelines depending on the report type. However, the majority of reports are due to the court and parties 10 days in advance of the hearing.
- You need to show the court and parties who you talked to and what documents you read.
- The parties have an opportunity to object to your recommendations, and the court does not have to follow your recommendations.

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*Additional Citations/References*

RCW 13.34.105(a-g)

GALR 2

(i)

Timely inform  
the court of  
relevant  
information

“A guardian ad litem 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.”

# Considerations

*continued*

Sometimes, information will be gathered that should be shared with the parties without waiting for the next hearing.

Information that is pertinent to the child's safety or wellbeing, the parents' participation and progress in services, or impropriety by another party in the case should be reported quickly to your coordinator to determine the best way to get the information to the rest of the parties in the case.

GALR 2

(i)

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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.”

# Considerations

Your role is only as authorized by the statute and court. If someone asks you to take on more, politely decline.

Examples:

- A social worker asks you to pass on information to the foster parents about the parent's medical situation.
- A visitation supervisor asks you to watch the family for "a quick second."
- A parent calls you on a Saturday for advice on whether to take the child to visit with the other parent.
- The relatives beg/casually ask you for information about the child's situation.
- Complying with any of these requests is beyond the scope of your duties!

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## *Additional Citations/References*

13.34.100 (j) A guardian ad litem shall explore concurrent planning and make a timely recommendation to the court for a permanent plan for the child.

## GALR 2 (j) Limited Duties

"A guardian ad litem shall comply with the court's instructions as set out in the order appointing a guardian ad litem, 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 guardian ad litem obtains additional instruction, clarification or expansion of the scope of such appointment."

# Considerations

Be upfront and immediately tell people your role in the case.

This avoids confusion and suspicion.

Make sure people know what they tell you can be shared with the court and the other parties through your report.

This includes the children on your caseload.

Do not make promises about keeping the source of the information confidential, or not sharing the information with the court.

GALR 2

(k)

Informing  
People About  
Your Role

“A guardian ad litem shall identify himself or herself as a guardian ad litem 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 guardian ad litem shall advise information sources that the documents and information obtained may become part of court proceedings.”

# Considerations

A voice focused solely on the child's best interests is critical at every hearing.

If you cannot attend, make sure you communicate your recommendations via report or, if shortened time, verbally, to your coordinator.

## GALR 2 (I)

### Appear at Hearings

"The guardian ad litem shall be given notice of all hearings and proceedings.

A guardian ad litem shall appear at any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed..."

# Considerations

You might see the judge in the hallway, elevator, or grocery store.

Tip: smile politely, and say, “Hi, Judge.” Do not even mention your cases.

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## *Additional Citations/References*

RCW 13.34.107 A guardian ad litem or court-appointed special advocate shall not engage in ex parte communications with any judicial officer involved in the matter for which he or she is appointed during the pendency of the proceeding, except as permitted by court rule or statute for ex parte motions. Ex parte motions shall be heard in open court on the record. The record may be preserved in a manner deemed appropriate by the county where the matter is heard. The court, upon its own motion, or upon the motion of a party, may consider the removal of any guardian ad litem or court-appointed special advocate who violates this section from any pending case or from any court-authorized registry, and if so removed may require forfeiture of any fees for professional services on the pending case.

## GALR 2 (m) Ex Parte Communication

“A guardian ad litem 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.

# Considerations

You are required to maintain the privacy of the persons with whom you are working.

You have access to extremely private information. It is very sensitive and must be treated accordingly.

If you breach confidentiality, 'even a little' or 'unknowingly', it must be addressed. Breaching confidentiality, even unintentionally, will likely result in your removal from the case and possibly, the program.

## GALR 2 (n) Confidentiality

Maintain privacy of parties.

As 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.

A guardian ad litem 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.

The guardian ad litem 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.



# Considerations

Kids can't linger in the system. Don't be the cause of any delay!

If you have information or a concern that needs attention, don't wait for the next court hearing. Talk to your coordinator.

Schedule to do your visits and phone calls in a consistent manner. Waiting until right before a court hearing to do this will result in an incomplete picture for the court.

If you are having trouble staying on top of your case, or you anticipate not being able to do so because of upcoming life events, contact your coordinator right away.

## GALR 2 (o) Perform Duties Timely

A guardian ad litem 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.

# Considerations

Keep well documented notes of your in-person and phone conversations, home visits, and observations.

- You might think you will remember something, but you need to write it down.
- Make sure to include dates and times in your notes.
- Organize the notes in a way that works well for you to easily access and recall them.

GALR 2

(p)

## Maintain Documentation

A guardian ad litem shall maintain documentation to substantiate recommendations and conclusions and shall keep records of actions taken by the guardian ad litem.

Except as prohibited or protected by law, and consistent with rule 2(n), 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.

# Considerations

*continued...*

- Keep in mind that the parties and court can request to review your notes at any time.
- Record your information accurately – repeat back to confirm, ask for clarification.
- Notes need to be professional, fact-based, behavioral-based. Keep opinions, frustrations, and judgments out of them.
- No tape-recording or videotaping.

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Except as prohibited or protected by law, and consistent with rule 2(n), 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.

# Considerations

You log many hours on these cases. Keep a log and track them!

Similarly, keep track of any expenses (including mileage) accrued.

GALR 2

(q)

Keep record of  
time and  
expenses

A guardian ad litem 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.