

Standards to Govern the Appointment of Guardians *Ad Litem* Pursuant to § 16.1-266, Code of Virginia

Introduction

The Judicial Council of Virginia has adopted standards to govern the appointment of attorneys as guardians *ad litem* for certain children. This action has been taken to comply with an enactment by the 1994 Session of the General Assembly that these standards for appointment be in effect as of January 1, 1995. For the dates of amendments to these Standards adopted by the Judicial Council of Virginia and their associated effective dates, see the concluding page of this document.

A copy of these standards as adopted by the Judicial Council follows. “Representation of Children as a Guardian *Ad Litem*,” the continuing legal education program which complies with standard B.1 is administered by Virginia CLE. You may call Virginia CLE at 1-800-979-8253 to indicate your interest in attending such a program and to learn about the program schedule.

There are other requirements in these standards of which you should take note. In order to be included on the list of qualified guardians *ad litem*, which is periodically distributed to the courts, you must file with the Office of the Executive Secretary, Supreme Court of Virginia, a letter and certain certificates as specified in Standard I.B.4. The required certificates will be made available to you at the continuing legal education program referenced above.

The goal of these standards is to foster vigorous, effective and competent representation of children’s interest and welfare. On behalf of the Judicial Council of Virginia, the Office of the Executive Secretary, Supreme Court of Virginia, looks forward to your participation in the training program and to receiving the information necessary to qualify you as a guardian *ad litem* for children.

The Standards

The Judicial Council of Virginia, in conjunction with the Virginia State Bar and the Virginia Bar Association, hereby sets forth the following standards to govern the appointment of attorneys as guardians *ad litem* pursuant to § 16.1-266, Code of Virginia.

I. Initial Qualification Requirements

In accordance with the provisions of § 16.1-266.1, to qualify for appointment as guardian *ad litem* pursuant to § 16.1-266, a person shall:

- A. Be an active member in good standing of the Virginia State Bar.
- B. Within the two-year period immediately prior to the date requesting initial qualification as a guardian *ad litem*, comply with the following provisions:
 - 1. Complete the seven hour MCLE approved continuing legal education program “Representation of Children as a Guardian *Ad Litem*,” which encompasses the following topics:

- a. Overview of the Juvenile and Domestic Relations District Court Law
- b. Roles, responsibilities and duties of guardian *ad litem* representation
- c. Laws governing child abuse and neglect, foster care case review, termination of parental rights and entrustments
- d. Role of social services agencies in handling abuse and neglect cases
- e. Developmental needs of children
- f. Characteristics of abusive and neglectful families and of children who are victims; physical, medical and mental health aspects of child abuse and neglect
- g. Communication with children; children as witnesses; use of closed circuit television
- h. Cultural awareness

The applicant attorney completing this program must attend the live course or a video replay of the live course, as offered by Virginia CLE.

Certification of attendance at this course shall be submitted to the Office of the Executive Secretary, Supreme Court of Virginia, on the required form in accordance with Standard I.B.4.f hereof.

2. Demonstrate familiarity with the court system and a general background in juvenile law by completion of one of the following:
 - a. Participation as an attorney, or as a third-year law student under [Part 6, § IV, Para. 15, of the Rules of the Supreme Court of Virginia](#), in four cases in the juvenile and domestic relations district court involving children, excluding traffic cases; or
 - b. Provision of assistance to one qualified guardian *ad litem*, who is an active member in good standing of the Virginia State Bar, in two cases involving children in the juvenile and domestic relations district court.

The attorney seeking qualification shall provide the case types and approximate time frames of the attorney's participation in the cases referenced, as well as the juvenile and domestic relations district court(s) in which the attorney appeared.

COMMENT:

Standard B.2.a

The requirement to "participate" in four cases in the juvenile court either as an attorney or qualified third-year law student may be met by serving either as lead counsel or co-counsel.

Standard B.2.b

The requirement to "assist" one qualified guardian ad litem in two cases in the juvenile court may be met by the applicant attorney associating with the qualified guardian ad litem who serves as a mentor for those two cases. The purpose of this association is to afford the applicant the opportunity to learn from the qualified guardian ad litem how to effectively

handle these cases. In addition, such an association provides the mentor guardian ad litem an opportunity to effectively measure the applicant's progress in handling these cases.

3. Demonstrate proficiency in the representation of children by submission of a required Nomination Certificate:
 - (i) From one juvenile and domestic relations district court judge before whom the attorney has appeared in cases listed in B.2.a or B.2.b, or
 - (ii) From a qualified guardian *ad litem* whom the applicant has assisted in two cases pursuant to B.2.b.

4. File with the Office of the Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, Richmond, Virginia, 23219, a letter which:
 - a. Requests qualification as a guardian *ad litem*.
 - b. States the applicant's social security number.
 - c. States the judicial districts in which the attorney wishes to accept appointments as a guardian *ad litem*.
 - d. Includes the applicant's written certification of compliance with paragraph B.2.a. or B.2.b. Such certification must specifically state the language of the paragraph B.2.a or B.2.b. Case information which identifies the parties is not required nor to be provided.
 - e. If not previously submitted, includes a certificate of nomination as required by paragraph B.3.
 - f. If not previously submitted, includes the required form certifying attendance at the MCLE continuing legal education program specified in Standard I.B.1.

Upon successful completion of the requirements outlined in Standard I, the Office of the Executive Secretary, Supreme Court of Virginia, will provide the applicant attorney a date of qualification for purposes of completing the biennial continuing education requirements outlined in Standard II. Qualification dates provided are January 1, April 1, July 1 or October 1 of each year.

The names of applicants who meet these requirements will be included on a list of attorneys qualified as guardians *ad litem* to be published by the Office of the Executive Secretary, Supreme Court of Virginia, and distributed electronically to the juvenile and domestic relations district courts and circuit courts in the Commonwealth no less than monthly, on or about the 1st day of each month.

II. Continuing Education Requirements

To maintain good standing as a qualified guardian *ad litem*, an attorney shall comply with the continuing education requirements set out hereafter.

- A. Complete six hours of approved continuing education, biennially, on any topic related to the representation of children as a guardian *ad litem*. Continuing education credit for repeating the initial program, “Representation of Children as a Guardian *Ad Litem*” will be approved once within a six-year period. A maximum of six hours will be approved within a six-year period for programs designed especially for attorneys specializing in adoption.
- B. To receive credit for completing this biennial continuing education requirement, submit to the Office of the Executive Secretary, Supreme Court of Virginia, the required Certificate of Attendance form certifying attendance at the required program hours. Such certification may be submitted by mail, facsimile, or electronically.

COMMENT:

Standard II.A.

The continuing education requirement of six hours every two years may be successfully fulfilled by attendance at a qualified MCLE approved program or any other non-MCLE approved program which assists an attorney in better representing children as a guardian ad litem. The goal is to permit attorneys to participate in interdisciplinary programs with other professions that also focus on serving children and families.

Examples of such programs include: training for Court Appointed Special Advocates (CASA); programs on domestic violence; programs on the “Psychiatric Treatment of Minors Act”; mental health programs on the effect of abuse, neglect, parental termination or divorce on a child; presentations on accessing school services or understanding school records and programs on special education; and programs on the availability of community resources, such as social services, financial assistance and youth centers.

III. Removal from the List of Qualified Guardians *Ad Litem* for Children

- A. An attorney shall be removed from the list of qualified guardians *ad litem* under the following circumstances:
 - 1. Receipt of a request from the attorney, in writing, that the attorney’s name be removed from the list of qualified guardians *ad litem*.
 - 2. Failure to complete the biennial continuing education requirements outlined in Standard II above.
 - 3. Suspension or revocation by the Virginia State Bar of the attorney’s license to practice law in the Commonwealth. Removal under this circumstance will occur upon the Executive Secretary receiving notice of such license suspension or revocation. If an attorney’s name is removed from the qualified list because of a license suspension and the attorney would like to again accept appointments as a guardian *ad litem*, the attorney must contact the Office of the Executive Secretary at the end of the license suspension term, request reinstatement in writing and complete the continuing education required by Standard III.B.
- B. An attorney removed from the list of qualified guardians *ad litem* pursuant to Standard III.A.1, Standard III.A.2 or Standard III.A.3, as it relates to a license suspension, must submit

the following to the Office of the Executive Secretary to again be included on the list of attorneys eligible for appointment as a guardian *ad litem* in the Commonwealth:

1. Within one year of being removed from the list, certification of attendance indicating the attorney completed the required six hours of approved continuing education and that such continuing education was completed within the past two years.
2. If more than one year passes since removal from the list, certification of attendance indicating the attorney completed seven hours of approved continuing education and that such continuing education was completed within the past two years.
3. If more than five years pass since removal from the list, the attorney shall complete the initial qualification process as outlined in Standard I above.

Upon successful completion of the requirements of Standard III.B.1 or Standard III.B.2, the Office of the Executive Secretary, Supreme Court of Virginia, will provide the attorney a date of qualification for purposes of completing the biennial continuing education requirements outlined in Standard II. Qualification dates are January 1, April 1, July 1 or October 1 of each year.

IV. Approval of Continuing Education Programs for Guardians *Ad Litem* for Children

The Office of the Executive Secretary, Supreme Court of Virginia, approves programs for continuing education credit for guardians *ad litem*. Programs may be submitted by a sponsoring group/organization (“program sponsor”) or by a member of the Virginia State Bar. Programs submitted to the Office of the Executive Secretary may or may not carry MCLE credit, which is provided by the Virginia State Bar.

- A. To request approval of a program for guardian *ad litem* continuing education credit, submit to the Office of the Executive Secretary, Supreme Court of Virginia, 100 N. 9th Street, 3rd floor, Richmond, Virginia 23219, the following information:
 1. Name of the sponsoring group/organization.
 2. Program date(s) and location(s).
 3. Detailed program agenda with session times clearly identified.
 4. Identification of the program session(s) for which GAL credit is being sought.
 5. Presenter biographies.
 6. Substantive written materials.
- B. Program sponsors should submit the information referenced in Standard IV.A at least ten business days prior to the first scheduled presentation. Programs approved for continuing education credit will receive a Certification of Attendance form for the dates and locations identified. Copies of this Certification of Attendance should be made available to program participants at the time the program is held.

Continuing education program approval is valid for one year from the date of approval. However, if a previously approved program is to be held on a date different from the date(s) identified in the initial request for continuing education approval, the program sponsor shall notify the Office of the Executive Secretary, Supreme Court of Virginia, of the additional program date(s) and provide a copy of any substantive change in program materials.

- C. Members of the Virginia State Bar who wish to request credit approval for an upcoming program that the attorney is planning to attend, should submit the information referenced in Standard IV.A at least ten business days prior to the scheduled presentation, or as soon as possible after the program has been presented. Programs approved for continuing education credit will receive a Certification of Attendance form to be completed by the attorney requesting program approval.

Amendments adopted October 18, 1999; effective date January 1, 2000

Amendments adopted October 23, 2006; effective date January 1, 2007

Amendments adopted October 20, 2008; effective date January 1, 2009

Amendments adopted October 13, 2010; effective date January 1, 2011

Amendments adopted September 12, 2014; effective date January 1, 2015