

§1556. Appointment of guardian ad litem in child protection cases under Title 22

1. Appointment of guardian ad litem. An order appointing a guardian ad litem pursuant to Title 22, section 4005 must specify the terms and conditions of the appointment as provided in Title 22, this chapter and rules adopted by the Supreme Judicial Court.

[PL 2013, c. 406, §1 (NEW).]

2. Order. An appointment of a guardian ad litem must be by court order.

A. The appointment order must be written on a court-approved form and must specify the guardian ad litem's length of appointment and specific duties, including the filing of a written report. [PL 2013, c. 406, §1 (NEW).]

B. The guardian ad litem has no authority to perform and may not be expected to perform any duties beyond those specified in the appointment order, unless subsequently ordered to do so by the court. [PL 2013, c. 406, §1 (NEW).]

C. In pursuit of the best interests of the child, the guardian ad litem must be given access to all reports and records relevant to the case and shall investigate to ascertain the facts. [PL 2013, c. 406, §1 (NEW).]

D. The guardian ad litem must be provided access to the child by any agency or person. [PL 2013, c. 406, §1 (NEW).]

E. The guardian ad litem shall file such reports, motions, responses or objections as necessary and appropriate to the stage of the case to assist the court in identifying the best interests of the child and provide copies to all parties of record. [PL 2013, c. 406, §1 (NEW).]

F. The guardian ad litem shall appear at all child protection proceedings, unless previously excused by order of the court, and other proceedings as ordered by the court. The guardian ad litem may present evidence and ensure that, when appropriate, witnesses are called and examined, including, but not limited to, foster parents and psychiatric, psychological, medical or other expert witnesses. If the guardian ad litem testifies, the guardian ad litem must be duly sworn as a witness and be subject to cross-examination. In the event any new developments or significant changes in the child's circumstances occur during the pendency of the court process, the guardian ad litem may file appropriate pleadings. [PL 2013, c. 406, §1 (NEW).]

G. The guardian ad litem shall protect the interests of the child who is a witness in any judicial proceeding relating to the case in which the guardian ad litem has been appointed. The guardian ad litem may advocate for special procedures, including, but not limited to, special procedures to protect the child witness from unnecessary psychological harm resulting from the child's testimony, with or without the consent of other parties. [PL 2013, c. 406, §1 (NEW).]

H. The guardian ad litem shall recommend appropriate services, by motion for court order if necessary, to access entitlements, to protect the child's interests and to implement a service plan. [PL 2013, c. 406, §1 (NEW).]

I. The hourly rate of compensation for the guardian ad litem may not be less than the rate of compensation established by the Maine Commission on Indigent Legal Services pursuant to section 1804, subsection 3, paragraph F. Nothing in this paragraph prohibits the court from establishing maximum fees and other reasonable requirements relating to guardian ad litem billing and compensation. [PL 2015, c. 439, §1 (NEW); PL 2015, c. 439, §3 (AFF).]

[PL 2015, c. 439, §1 (AMD); PL 2015, c. 439, §3 (AFF).]

3. Best interests of the child. In performance of duties specified in the appointment order, the guardian ad litem shall use the standard of the best interests of the child.

[PL 2013, c. 406, §1 (NEW).]

4. Wishes of the child. The guardian ad litem shall make the wishes of the child known to the court if the child has expressed them, regardless of the recommendation of the guardian ad litem. [PL 2013, c. 406, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 406, §1 (NEW). PL 2015, c. 439, §1 (AMD). PL 2015, c. 439, §3 (AFF).

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