

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

ADMINISTRATIVE ORDER

96-02

ADMINISTRATIVE REVIEWS IN JUVENILE (D/N) CASES

WHEREAS, both the courts and the department of human services have authority to conduct reviews of out-of-home placements of children in dependency and neglect cases, and


WHEREAS, §19-1-115(4)(c), C.R.S. 8B (1995 Cum Supp) authorizes the court to require the state department of human services to review any decree which orders an out-of-home placement pursuant to §19-1-115(4) each six months after the initial three-month review contemplated by said subsection 115(4)(a).

NOW THEREFORE, pursuant to said §19-1-115(4)(c), the Court hereby Orders that, within the Seventh Judicial District, all Permanency Planning Reviews and any other required reviews, after the initial three-month review required in §19-1-115(4)(a), shall be conducted administratively by the County Department of Social Services which is responsible for the out-of-home placement of the subject child in a dependency and neglect case, unless a party requests a court hearing, or unless the Court deems it necessary to require a hearing.

As a prerequisite to the conduct of such administrative reviews, the County Department of Social Services shall ensure that all statutory and procedural requirements (including proper notice) are met when scheduling and conducting administrative reviews. This shall include specific compliance with Colorado Department of Human Services Regulation #7.504.84. The Department of Social Services shall provide a report to the Court every six months detailing the results of the each review together with the date of original placement, number of different placements while the child has been in the Department's custody, current placement, anticipated date of return to the home or independent living, and a synopsis of visitation arrangements. Within 10 days after the review, the Department shall file said report with the Court and shall distribute copies thereof to counsel of record, the guardian ad litem (if any) and all pro se parties.

Within 15 days after receipt of a copy of the report, any party may request a hearing for the purposes of reviewing placement, custody, and any other component of the out-of-home placement plan described in the report.

THIS ADMINISTRATIVE ORDER IS ENTERED, This 12th day of March, 1996.



Chief Judge, 7th Judicial District

cc: District Judges
Magistrate
Clayton, JDA 7th Jud District
County Departments of Social Services in 7th Jud District

State of Colorado



DELTA COUNTY COURTHOUSE
301 PALMER #338
DELTA, COLORADO 81416
(970) 874-4416 EXT. 0

ROBERT A. BROWN
CHIEF JUDGE

SEVENTH JUDICIAL DISTRICT

DELTA, GUNNISON, HINSDALE
MONTROSE, OURAY, AND SAN MIGUEL
COUNTIES

MEMORANDUM

TO: Attorneys Who Accept Appointments
As GALs in the 7th Judicial District

DATE: June 12, 1996

FROM: Chief Judge, Robert A. Brown

The purpose of this Memorandum is to enclose and explain certain materials relating to procedures involving Guardians ad Litem.

1. CJD 96-02 adopted by Chief Justice Vollack on January 22, 1996, is enclosed together with a memorandum issued by him on March 19, 1996, which clarifies the implementation of CJD 96-02. It is my understanding that some if not most of you who accept GAL appointments in the 7th Judicial District may not have received these materials. Therefore, they are enclosed to apprise you of the obligations you have in following Chief Justice Vollack's directive.

2. Certain questions have been pending for some time regarding payment of the fees for GALs when appointed by the Court. I have finally adopted the enclosed Administrative Order 96-06 which outlines the various procedures applicable for fees to be billed and paid, and also addressing the situation in which a GAL (in a case involving parties who are not indigent) is not being paid for services rendered. [¶5 of 96-06]

Should you have any questions regarding these enclosures, please let me know as soon as possible.

SUPREME COURT OF COLORADO

Office of the Chief Justice

DIRECTIVE CONCERNING GUARDIANS AD LITEM
IN CASES UNDER TITLE 19 OF THE COLORADO REVISED STATUTES

The following policy is adopted, effective February 1, 1996, to enhance the representation of children by state paid guardians ad litem appointed under Title 19 of the Colorado Revised Statutes. This directive specifies the duties of the guardian ad litem, the oversight responsibilities of the appointing judicial officer, compliance reporting procedures, and sanctions for failure to comply with the provisions of this order. This directive does not prohibit judicial officers from requiring guardians ad litem to perform additional duties when warranted by the circumstances of specific cases.

Pursuant to Sections 19-3-203(1) and 19-1-111(1), 8B C.R.S. (1986), the court is required to appoint a guardian ad litem in cases alleging abuse or neglect of a child. The guardian ad litem represents the best interests of the child and has the responsibility to ensure that the child is protected from harm and is placed in a stable environment. Section 19-3-203(3) requires the guardian ad litem to perform necessary investigations; make recommendations to the court; and, if in the best interests of the child, assure that reasonable efforts are made to prevent unnecessary placement of the child out of the home and facilitate reunification of the child with the child's family. Under this section, the guardian ad litem is required to talk with and observe the child, examine and cross-examine witnesses, introduce witnesses, file appeals, and participate in the proceedings to the degree necessary to adequately represent the child.

In addition, section 19-1-111(2) provides for the appointment of a guardian ad litem in delinquency proceedings under certain conditions such as non-appearance of parents, guardian, or legal custodian, or when there appears to be a conflict between the parents and the child.

Duties of the Guardian Ad Litem. In order to meet these statutory requirements, the guardian ad litem has, at a minimum, the following duties:

1. Attend all court hearings and provide accurate and current information directly to the court.
2. Conduct an independent investigation in a timely manner which shall include, at a minimum:
 - a) Personally meeting with and observing the child at home or in placement;
 - b) Personally interviewing the child, if age appropriate, and the parents;
 - c) Reviewing court files and relevant reports;
 - d) Interviewing other people involved in the child's life; and
 - e) When permissible, visiting the home from which the child was removed.

Duties (d) and (e) may be performed, under the supervision of the guardian ad litem, by a qualified person.

3. Continue to perform duties (a) through (e) as necessary to represent the best interests of the child for the duration of the case.
4. Complete 10 hours per reporting period of continuing legal education courses or other courses on issues relevant to children, such as child development, family dynamics, sexual abuse, mental health, domestic violence, substance abuse, and neglect.

Judicial Officer Responsibility. Judicial officers who preside over Juvenile cases shall ensure that guardians ad litem involved with cases under their jurisdiction are representing the best interests of children and performing the duties specified in this order. In providing this oversight judicial officers shall:

1. Routinely monitor compliance with this Directive.
2. Encourage local bar associations to develop and implement mentor programs which will enable prospective guardians ad litem to learn this area of the law.
3. Encourage local bar associations to establish guardian ad litem oversight committees.
4. Meet with guardians ad litem at the first appointment to provide guidance and clarify the expectations of the court.
5. Hold periodic meetings with all practicing guardians ad litem as the court deems necessary to ensure adequate representation of children.

Compliance Reporting Procedures. Annually, all guardians ad litem appointed under Title 19 of the Colorado Revised Statutes shall submit a compliance report to the presiding juvenile judge or, absent a presiding juvenile judge, the chief judge. Copies of the report submitted by contract guardians ad litem shall be forwarded to the Office of the State Court Administrator. A *Compliance Report* form shall be prepared by the Office of the State Court Administrator and made available to all guardians ad litem.

Complaints. All complaints regarding the performance of guardians ad litem shall be submitted to and reviewed by the presiding juvenile judge or, absent a presiding juvenile judge, the chief judge. Copies of complaints regarding contract guardians ad litem shall be forwarded by the presiding juvenile or chief judge to the Office of the State Court Administrator. Upon request by the presiding juvenile or chief judge, the State Court Administrator will conduct a review of the guardian ad litem which may include interviews with pertinent parties, court observation, review of attorney records and court file reviews.

Complaints regarding hourly court appointed guardians ad litem shall be submitted to and reviewed by the presiding juvenile judge or, absent a presiding juvenile judge, the chief judge. Upon request by a presiding juvenile or chief judge, the Office of the State Court Administrator will conduct a review as described above.

Sanctions.

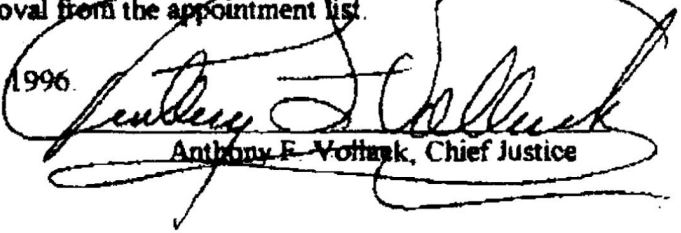
Contracts

All contracts for guardians ad litem shall include a provision to ensure compliance with this Chief Justice Directive. Failure to comply may result in termination of the contract.

Hourly Appointments

Judicial officers shall notify guardians ad litem who are appointed on an hourly basis that acceptance of the appointment requires compliance with this Directive. Failure to comply may result in termination of the current appointment and removal from the appointment list.

Signed this 22 day of January, 1996.


Anthony F. Voffink, Chief Justice

SUPREME COURT OF COLORADO

STATE JUDICIAL BUILDING
2 EAST 14TH AVENUE
DENVER, COLORADO 80203

Filed in the Combined Court
Delta County, Colorado

ANTHONY F. VOLLACK
CHIEF JUSTICE

(303) 837-3765

MAR 25 1996

Dennis R. Blaine, Clerk

MEMORANDUM

TO: All Chief Judges, Presiding Juvenile Judges and Juvenile Magistrates

FROM: Chief Justice Anthony F. Vollack

SUBJECT: Clarification of Chief Justice Directive 96-02 Concerning Guardians ad Litem

DATE: March 19, 1996

Thank you for your efforts to implement Chief Justice Directive 96-02, Concerning Guardians ad Litem In Cases Under Title 19. The intent of the Directive was to provide some guidance for both guardians ad litem and judicial officers. The process of monitoring the performance of the guardians was developed to meet the needs of children, yet not overburden judicial officers. The monitoring is formalized by the use of the compliance report, however, much of the implementation of the Directive is intended to be informal. Several issues regarding the Directive have been raised by both guardians ad litem and judicial officers. The points listed below are intended to provide clarification of those issues.

1. DUTIES OF THE GUARDIANS AD LITEM

Attend All Court Hearings

Guardians ad litem are required to attend all court hearings. Exceptions to this requirement should only be made on an emergency basis.

Personally Meeting with the Child

Several concerns were raised regarding children who are in placement outside of the state. In these cases, judicial officers should waive this requirement unless extraordinary circumstances warrant the expenditure of state funds required for such visits.

The expense of visiting children in placements outside of the judicial district was also raised as an issue. Guardians ad litem should personally meet children who are in placement within a reasonable commute of the judicial district and this requirement should otherwise be waived, unless a visit is warranted by extraordinary circumstances. Efforts should be made to contact guardians ad litem or, if available, CASA organizations to assist in out-of-county visits. Efforts to achieve "substitute" geographical guardians ad litem or CASA visitation can be facilitated through the Office of the State Court Administrator.

Interviewing Parents

Concern has also been raised regarding the ethics of guardians ad litem meeting with parents who are represented by counsel. All such interviews should be conducted with the permission of counsel. If such permission is not given, the requirement to interview respondent parents is automatically waived.

Use of "Qualified Persons" by Guardians ad Litem

Judicial officers should rely upon the guardian ad litem to determine if the people used by them to assist in conducting interviews and visiting the home from which the child was removed are qualified. If problems arise, judicial officers can, at that time, more closely question the guardian ad litem regarding the use of a "qualified" person.

Allowing the use of a "qualified person" is not intended to result in additional costs to the state. Any payment of such costs associated with the use a qualified person are only warranted in extraordinary cases and must be pre-approved by the judicial officer.

Continuing Legal Education (CLE) Reporting Requirements

There appears to be considerable confusion regarding the CLE requirement. The 10 hours of CLE is required during the 3 year CLE reporting period, not the annual compliance form reporting period. The hours should be prorated according to the point at which a particular attorney is in the 3 year reporting period on February 1, 1996. For example, if an attorney's CLE reporting period ends in August 1996, 1.7 hours would be required. Again, this is an honor based, self reporting compliance process. Submission of copies of CLE forms to the court or other means of verification are not necessary or desired.

2. JUDICIAL OFFICER RESPONSIBILITIES

Monitoring of Guardian ad Litem compliance with CJD 96-02

Monitoring of guardians ad litem by judicial officers should be an informal process in which guardians are questioned in court or in chambers regarding compliance with CJD 96-02. Separate forms or formal processes should not be used.

Expectations of the Court and of Guardians ad Litem

Judicial officers should meet separately with new guardians ad litem upon the initial appointment to clarify court expectations of their duties.

Periodic Meetings

Periodic meetings with guardians ad litem should be informal. Where possible, judicial districts may wish to combine the initial meeting with other districts so that attorneys practicing in several districts are not required to attend more than one meeting. Staff at the Office of the State Court Administrator are available to assist in this effort.

3. COMPLIANCE REPORTING PROCEDURES

Guardians ad Litem Practicing in More than One Judicial District

Compliance reports are required for each district in which a guardian ad litem practices. These forms cannot be combined.

I hope that this memorandum provides clarification for you regarding implementation of the Chief Justice Directive. Again, the Directive is not intended to become a burdensome bureaucratic system. Please contact me or Laurie Shera at 837-3662 if you have any additional concerns or have any recommendations regarding the Directive. Thank you for your cooperation and assistance in implementing this Directive.

GUARDIAN AD LITEM COMPLIANCE REPORT
 Reporting Period: _____ to _____

DRAFT

Name: _____

District: _____

Continuing Education:

Course Name: _____
 Course Name: _____
 Course Name: _____

Number of Hours: _____
 Number of Hours: _____
 Number of Hours: _____

Course Name: _____
 Course Name: _____
 Course Name: _____

Number of Hours: _____
 Number of Hours: _____
 Number of Hours: _____

Case Number	Case Name	Attend all Hearings	Submit Reports to Court	Observe child at home or in placement -- dates	Interview child, if age appropriate -- dates	Interview parents -- dates	Review court files and other reports	Interview interested parties - dates	Visit home from which child was removed
1		Y / N	Y / N				Y / N		Y / N
2		Y / N	Y / N				Y / N		Y / N
3		Y / N	Y / N				Y / N		Y / N
4		Y / N	Y / N				Y / N		Y / N
5		Y / N	Y / N				Y / N		Y / N

The above statements are true and accurate to the best of my knowledge.

 Signature of Guardian ad Litem