

PENNSYLVANIA

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>County-by-county. In Pennsylvania, each county (there are 67) is responsible for implementing the requirements regarding appointment of a GAL and counsel for children. E.g., <a href="http://www.pacourts.us/assets/files/setting-812/file-2846.pdf?cb=7e9abe">http://www.pacourts.us/assets/files/setting-812/file-2846.pdf?cb=7e9abe</a></p>
<p>Funding Child Representation</p>	<p>There is no explicit legal authority or requirement for GALs or counsel for children.</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child's interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>(a) Appointment.--When a proceeding, including a master's hearing, has been initiated alleging that the child is a dependent child under paragraph (1), (2), (3), (4) or (10) of the definition of "dependent child" in section 6302 (relating to definitions), the court shall appoint a guardian ad litem to represent the legal interests and the best interests of the child. The guardian ad litem must be an attorney at law.</p> <p>(b) Powers and duties.--The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child at every stage of the proceedings... <a href="#">42 Pa. Cons. Stat. § 6311</a></p> <p>(a) The court may on its own motion or the motion of a party appoint a guardian ad litem to represent the child in the action. The court may assess the cost upon the parties or any of them or as otherwise provided by law. The guardian ad litem must be an attorney at law.</p> <p>(b) The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child during the proceedings ...</p> <p>(c) If substantial allegations of abuse of the child are made, the court shall appoint a guardian ad litem for the child if:</p> <p>(1) counsel for the child is not appointed under section 5335 (relating to counsel for child); or</p> <p>(2) the court is satisfied that the relevant information will be presented to the court only with such appointment. <a href="#">23 Pa. Cons. Stat. § 5334</a></p> <p>(a) The court may appoint counsel to represent the child if the court determines that the appointment will assist in resolving the issues in the custody proceeding. If a child has legal counsel and a guardian ad litem, counsel shall represent the legal interests of the child and the guardian ad litem shall represent the best interests of the child.</p>

(b) Substantial allegations of abuse of the child constitute a reasonable basis for appointing counsel for the child ... [23 Pa. Cons. Stat. § 5335](#)

A. The court shall assign a guardian *ad litem* to represent the legal interests and the best interests of the child if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

- 1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the physical, mental or emotional health, or morals;
- 2) has been placed for care or adoption in violation of law;
- 3) has been abandoned by parents, guardian, or other custodian;
- 4) is without a parent, guardian or legal custodian; or
- 5) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety, or welfare of the child.

B. *Counsel for child.* The court shall appoint legal counsel for a child:

- 1) if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:
  - a) while subject to compulsory school attendance is habitually and without justification truant from school;
  - b) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of the child's guardian and who is ungovernable and found to be in need of care, treatment, or supervision;
  - c) is under the age of ten years and has committed a delinquent act;
  - d) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (B)(1)(b);
  - e) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or
  - f) has filed a motion for resumption of jurisdiction pursuant to Rule 1634; or
- 2) upon order of the court.

C. *Counsel and Guardian ad litem for child.* If a child has legal counsel and a guardian *ad litem*, counsel shall represent the legal interests of the child and the guardian *ad litem* shall represent the best interests of the child.

D. *Time of appointment.*

	<p>1) <i>Child in custody.</i> The court shall appoint a guardian <i>ad litem</i> or legal counsel immediately after a child is taken into protective custody and prior to any proceeding.</p> <p>2) <i>Child not in custody.</i> If the child is not in custody, the court shall appoint a guardian <i>ad litem</i> or legal counsel for the child when a dependency petition is filed. <a href="#">Pa.R.J.C.P. No. 1151.</a></p> <p>Legal counsel shall be provided for a child who is alleged or has been found to be a dependent child in accordance with the Pennsylvania Rules of Juvenile Court Procedure. <a href="#">42 Pa. Cons. Stat. § 6337.1.</a></p> <p>(a) The court shall appoint counsel to represent the child in an involuntary termination proceeding when the proceeding is being contested by one or both of the parents. <a href="#">23 Pa. Cons. Stat. § 2313</a></p> <p>The court may appoint or discharge a CASA at any time during a proceeding or investigation regarding dependency under this chapter. <a href="#">42 Pa. Cons. Stat. § 6342</a></p>
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>(b) The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child during the proceedings and shall do all of the following:</p> <p>(1) If appropriate to the child's age and maturity, meet with the child as soon as possible following the appointment and on a regular basis thereafter.</p> <p>(2) On a timely basis, be given access to relevant court records, reports of examination of the parents or other custodian of the child and medical, psychological and school records.</p> <p>...</p> <p>(4) Conduct such further investigation necessary to ascertain relevant facts for presentation to the court.</p> <p>(5) Interview potential witnesses, including the child's parents and caretakers, if any. The guardian ad litem may examine and cross-examine witnesses and present witnesses and evidence necessary to protect the best interests of the child.</p> <p>(6) Make specific recommendations in a written report to the court relating to the best interests of the child, including any services necessary to address the child's needs and safety. The court shall make the written report part of the record so that it may be reviewed by the parties. The parties may file with the court written comments regarding the contents of the report. The comments filed by the parties shall also become part of the record.</p> <p>(7) Explain the proceedings to the child to the extent appropriate given the child's age, mental condition and emotional condition.</p> <p>(8) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and</p>

emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court. A difference between the child's wishes under this paragraph and the recommendations under paragraph (6) shall not be considered a conflict of interest for the guardian ad litem. [23 Pa. Cons. Stat. § 5334](#)

(b) The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child at every stage of the proceedings and shall do all of the following:

(1) Meet with the child as soon as possible following appointment pursuant to section 6337 (relating to right to counsel) and on a regular basis thereafter in a manner appropriate to the child's age and maturity.

(2) On a timely basis, be given access to relevant court and county agency records, reports of examination of the parents or other custodian of the child pursuant to this chapter and medical, psychological and school records.

...

(4) Conduct such further investigation necessary to ascertain the facts.

(5) Interview potential witnesses, including the child's parents, caretakers and foster parents, examine and cross-examine witnesses and present witnesses and evidence necessary to protect the best interests of the child.

(6) At the earliest possible date, be advised by the county agency having legal custody of the child of:

(i) any plan to relocate the child or modify custody or visitation arrangements, including the reasons therefor, prior to the relocation or change in custody or visitation; and

(ii) any proceeding, investigation or hearing under 23 Pa.C.S. Ch. 63 (relating to child protective services) or this chapter directly affecting the child.

...

(8) Explain the proceedings to the child to the extent appropriate given the child's age, mental condition and emotional condition.

(9) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court. A difference between the child's wishes under this paragraph and the recommendations under paragraph (7) shall not be considered a conflict of interest for the guardian ad litem. [42 Pa. Cons. Stat. § 6311](#); [Pa.R.J.C.P. No. 1154](#)

(a) Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

...

(3) A guardian ad litem or court designated advocate for the child. [23 Pa. Cons. Stat. § 6340](#)

(d) Following appointment by the court, the CASA shall:

(1) have full access to and review all records, including records under 23 Pa.C.S. Ch. 63 (relating to child protective services) relating to the child and other information, unless otherwise restricted by the court;

(2) interview the child and other appropriate persons as necessary to develop its recommendations;

(3) receive reasonable prior notice of all hearings, staff meetings, investigations or other proceedings relating to the child;

(4) receive reasonable prior notice of the movement of the child from one placement to another placement, the return of a child to the home, the removal of a child from the home or any action that materially affects the treatment of the child;

(5) submit written reports to the court to assist the court in determining the disposition best suited to the health, safety and welfare of the child; and

(6) submit copies of all written reports and recommendations to all parties and any attorney of a party. [42 Pa. Cons. Stat. § 6342](#)

(a) A petition to terminate parental rights with respect to a child under the age of 18 years may be filed by any of the following ...

(4) An attorney representing a child or a guardian ad litem representing a child who has been adjudicated dependent under 42 Pa.C.S. § 6341(c) (relating to adjudication). [23 Pa. Cons. Stat. § 2312](#)

Generally, CASAs review records, research information, and interview the child and everyone else involved in the case. They prepare reports and recommendations for the court and monitor the case until conclusion or whatever time period is defined in the order of appointment. Volunteers generally have only one or two cases at a time and their activities are monitored by a CASA case manager....

CASA volunteers, under the supervision of their agency, create a written report that details the history of the case, the work they have done, and the results of their investigations, as well as specific recommendations for the children and the family to which they are assigned. CASA reports should be provided in advance to all parties, as well as to the court. The volunteer or other responsible person from the CASA agency should be available in the courtroom to testify at the request of the court or parties regarding the investigation or recommendations provided within the report. If the court has appointed CASA on a case, the court should hear from them at some point during the hearing, whether that is through

	testimony or the presentation of their report and recommendations. <a href="#">Family Dependency Benchbook, 15.7.2</a>
<p>3. In Court – Active Participation in Hearings: Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</p>	<p>(b) The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child during the proceedings and shall do all of the following:  ...  (3) Participate in all proceedings. <a href="#">23 Pa. Cons. Stat. § 5334</a></p> <p>(3) Participate in all proceedings, including hearings before masters, and administrative hearings and reviews to the degree necessary to adequately represent the child.  ...  (7) Make specific recommendations to the court relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety. <a href="#">42 Pa. Cons. Stat. § 6311</a>; <a href="#">Pa.R.J.C.P. No. 1154</a></p> <p>The GAL is the child’s voice in the courtroom, especially if the child is not of age to articulate his or her own best interests. Pa.R.J.C.P. 1128 requires the presence of the child’s attorney at all proceedings with no exceptions provided. If the child has a GAL and legal counsel, both attorneys shall be present. Additionally, the Juvenile Court Rules have specifically set forth the duties and responsibilities of the GAL in Pa.R.J.C.P. 1154. <a href="#">Family Dependency Benchbook, 4.2.2</a></p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>The GAL should always be kept apprised of any changes to the child’s placement, custody, visitation or treatment plan. Both the county agency and the GAL should be proactive in assuring the GAL is informed of all actions that affect the child’s safety, well being and permanence. This includes ensuring that the GAL has access to all relevant court and agency records, such as reports on the child’s guardians, reports on the child, and the child’s medical and school records. <a href="#">Family Dependency Benchbook, 4.2.2</a></p> <p>At every permanency review, the court should determine whether the placement goal is appropriate and feasible, and if not, whether a new placement goal should be set. The judge or master should seek an opinion from the agency and consider the positions of the GAL or counsel for the child, the parents and their counsel, and the CASA before reaching a decision... <a href="#">Family Dependency Benchbook, 10.6.5</a></p>
<p>5. Appellate Advocacy: Decision to appeal,</p>	<p>A. In accordance with Pa.R.A.P. 102, revised in 2009, and in accordance with a program first established in this court in 2000, the court shall expedite handling of appeals involving parent-child relationships as</p>

<p>withdrawal, participation in appeal, conclusion by appeal.</p>	<p>follows:</p> <ol style="list-style-type: none"> <li>1. Children’s Fast Track: All cases involving dependency, termination of parental rights, adoption, custody, or paternity shall be designated as Children’s Fast Track in the Superior Court.</li> <li>2. Other Family Fast Track: Central Legal Staff in its discretion may expedite other appeals involving the parent-child relationship. Such cases shall be designated “Other Family Fast Track.” <a href="#">Superior Court I.O.P., § 65.14.</a></li> </ol> <p>(2)(i) In a children’s fast track appeal, the appellant shall serve and file appellant’s brief within 30 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve and file appellee’s brief within 21 days after service of appellant’s brief and reproduced record. A party may serve and file a reply brief permitted by these rules within 7 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least 3 days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served and filed within 21 days of service of the deemed or designated appellee’s first brief. Briefs shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. <a href="#">Pa.R.A.P., Rule 2185.</a></p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p>B. Once an appearance is entered or the court assigns counsel for the child, counsel shall represent the child until the closing of the dependency case, including any proceeding upon direct appeal and permanency review, unless permitted to withdraw pursuant to paragraph (C).</p> <p>C. <i>Withdrawals.</i></p> <ol style="list-style-type: none"> <li>1) Upon motion, counsel shall be permitted to withdraw only: <ol style="list-style-type: none"> <li>a) by order of the court for good cause shown; or</li> <li>b) if new counsel has entered an appearance in accordance with paragraph (A).</li> </ol> </li> <li>2) A motion to withdraw shall be: <ol style="list-style-type: none"> <li>a) filed with the clerk of courts, and a copy concurrently served on the other parties’ attorneys, or the party, if unrepresented; or</li> <li>b) made orally on the record in open court in the presence of the parties. <a href="#">Pa.R.J.C.P. No. 1150</a></li> </ol> </li> </ol>
<p>7. General Representation Rules: Administrative structure is clear for appointment, support</p>	<p>1) The Guardian <i>ad litem</i> and counsel for each party shall file an entry of appearance with the clerk of courts promptly after being retained and serve a copy on all other parties. <a href="#">Pa.R.J.C.P. No. 1150(A)</a></p> <p>In Pennsylvania, each county (there are 67) is responsible for implementing the requirements regarding appointment of a GAL and counsel for children. E.g., <a href="http://www.pacourts.us/assets/files/setting-812/file-2846.pdf?cb=7e9abe">http://www.pacourts.us/assets/files/setting-812/file-2846.pdf?cb=7e9abe</a></p>

<p>and accountability of the CR. The child's representative is independent from the court</p>	<p>a) Appointment.--When a proceeding, including a master's hearing, has been initiated alleging that the child is a dependent child under paragraph (1), (2), (3), (4) or (10) of the definition of "dependent child" in section 6302 (relating to definitions), the court shall appoint a guardian ad litem to represent the legal interests and the best interests of the child. The guardian ad litem must be an attorney at law.  (b) Powers and duties.--The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child at every stage of the proceedings... <a href="#">42 Pa. Cons. Stat. § 6311</a></p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>(c) Prior to appointment, a CASA shall...  (3) Successfully complete the training requirements established under subsection (f) and by the court of common pleas of the county where the CASA will serve. <a href="#">42 Pa. Cons. Stat. § 6342</a></p> <p><i>However, there is no explicit legal authority or requirement for GALs or counsel for children.</i></p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>There is no explicit legal authority or requirement for GALs or counsel for children.</p>
<p>10. Caseload Levels: Caseloads are of a manageable size</p>	<p>The Common Pleas Case Management System provides county courts with caseload reports, which provide information to assist in the evaluation and enhancement of court processes aimed at securing safe, timely permanence for dependent children. <a href="#">Family Dependency Benchbook, 15.4</a></p>