

NEW MEXICO

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>District by district: Each Judicial District enters into contracts with attorneys to serve as GALs and Youth Attorneys, using state funds appropriated to the court system. Occasionally the court may appoint an attorney in a given case who does not have a contract.</p> <p>The Administrative Office of the Courts (AOC) accepts proposals from licensed New Mexico attorneys or firms to provide professional legal services, including guardian ad litem services, in various judicial districts. <a href="#">New Mexico Administrative Office of the Courts, Request for Proposals.</a></p>
<p>Funding Child Representation</p>	<p>The following expenses shall be a charge upon the funds of the court upon their certification by the court:</p> <p>(1) reasonable compensation for services and related expenses for counsel appointed by the court;</p> <p>(2) reasonable compensation for services and related expenses of a guardian ad litem or a child's attorney appointed by the court ... <a href="#">Children's Code 32A-1-19(A)</a></p> <p>B. The court may order the parent or other person legally obligated to care for and support a child to pay all or part of the costs and expenses pursuant to Subsection A of this section when:</p> <p>(1) the child has been found to be a delinquent child, a child of a family in need of court-ordered services, an abused or neglected child or a child with a mental illness or a developmental disability;</p> <p>(2) the parent or other person legally obligated to care for and support a child is given notice and a hearing to determine the parent or person's financial ability to pay the costs and expenses; and</p> <p>(3) the court finds that the parent or person is able to pay all or part of the costs and expenses.</p> <p><a href="#">Children's Code 32A-1-19(B)</a></p> <p>Fees, costs, and expenses, except witness fees, in abuse and neglect cases are paid from the Court Appointed Attorneys Fees Fund (CAAFF). The majority of the CAAFF is used to pay court appointed attorneys in abuse and neglect and mental health cases leaving a limited amount available to cover any additional fees, costs, and expenses.</p> <p><a href="http://www.nmcourts.gov/CAA/PaymentOfFeesCostsAndExpensesFY13.pdf">http://www.nmcourts.gov/CAA/PaymentOfFeesCostsAndExpensesFY13.pdf</a></p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay</p>	<p>A. A child subject to the provisions of the Children's Code [<a href="#">32A-1-1</a> NMSA 1978] is entitled to the same basic rights as an adult, except as otherwise provided in the Children's Code.</p> <p>B. At the inception of an abuse or neglect proceeding, counsel shall be appointed for the parent, guardian or custodian of the child. The appointed counsel shall represent the parent, guardian or custodian who is named as a party until an indigency determination is made at the custody</p>

person, represent child's interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.

hearing. Counsel shall also be appointed if, in the court's discretion, appointment of counsel is required in the interest of justice.

C. At the inception of an abuse and neglect proceeding, the court shall appoint a guardian ad litem for a child under fourteen years of age. If the child is fourteen years of age or older, the court shall appoint an attorney for the child. No officer or employee of an agency that is vested with the legal custody of the child shall be appointed as guardian ad litem of or attorney for the child. Only an attorney with appropriate experience shall be appointed as guardian ad litem of or attorney for the child.

D. When reasonable and appropriate, the court shall appoint a guardian ad litem or attorney who is knowledgeable about the child's particular cultural background.

E. When a child reaches fourteen years of age, the child's guardian ad litem shall continue as the child's attorney; provided that the court shall appoint a different attorney for the child if:

- (1) the child requests a different attorney;
- (2) the guardian ad litem requests to be removed; or
- (3) the court determines that the appointment of a different attorney is appropriate.

F. The court shall assure that the child's guardian ad litem zealously represents the child's best interest and that the child's attorney zealously represents the child.

G. A person afforded rights under the Children's Code shall be advised of those rights at that person's first appearance before the court on a petition under the Children's Code. [Children's Code 32A-4-10.](#)

Upon the filing of a petition in an abuse or neglect proceeding, a guardian ad litem shall be appointed by the court to represent the best interest of any child under the age of fourteen (14). The court shall appoint an attorney to represent any child who is fourteen (14) years of age or older. [N.M. Sup. Ct. R. 10-312\(D\)](#)

If a child in an abuse or neglect proceeding is represented by a guardian *ad litem* at the time the child reaches the age of fourteen (14) years of age, the guardian *ad litem* shall either:

- (1) file a notice of continued representation as attorney for the child; or
- (2) file a motion to request the court appoint an attorney for the child.

At the first appearance of a child in an abuse or neglect proceeding after the child's fourteenth (14th) birthday, the court shall inquire as to whether the child is represented by an attorney. If the child is not represented by an attorney, the court shall appoint an attorney. [N.M. Sup. Ct. R. 10-313](#)

A. An attorney shall represent a child in a proceeding for which the attorney has been retained or appointed. The attorney shall provide the same manner of legal representation and be bound by the

same duties to the child as is due an adult client, in accordance with the rules of professional conduct.

...

C. An attorney representing a child in a proceeding pursuant to the Abuse and Neglect Act [[32A-4-1 NMSA 1978](#)] may retain separate counsel to represent the child in a tort action on a contingency fee basis or any other cause of action in proceedings that are outside the jurisdiction of the children's court. When a child's attorney retains separate counsel to represent the child, the attorney shall provide the court with written notice within ten days of retaining the separate counsel. The child's attorney shall not retain or subsequently obtain any pecuniary interest in an action filed on behalf of the child outside of the jurisdiction of the children's court. [Children's Code 32A-1-7.1](#)

A. A guardian ad litem shall zealously represent the child's best interests in the proceeding for which the guardian ad litem has been appointed and in any subsequent appeals.

B. Unless excused by a court, a guardian ad litem appointed to represent a child's best interests shall continue the representation in any subsequent appeals.

...

D. After consultation with the child, a guardian ad litem shall convey the child's declared position to the court at every hearing.

...

F. A guardian ad litem may retain separate counsel to represent the child in a tort action on a contingency fee basis or any other cause of action in proceedings that are outside the jurisdiction of the children's court. When a guardian ad litem retains separate counsel to represent the child, the guardian ad litem shall provide the court with written notice within ten days of retaining the separate counsel. A guardian ad litem shall not retain or subsequently obtain any pecuniary interest in an action filed on behalf of the child outside of the jurisdiction of the children's court.

G. In the event of a change of venue, the originating guardian ad litem shall remain on the case until a new guardian ad litem is appointed by the court in the new venue and the new guardian ad litem has communicated with and received all pertinent information from the former guardian ad litem.

[Children's Code 32A-1-7](#)

(1) In the same or related abuse and neglect proceedings, the court may appoint the same attorney to represent the best interests of the children in a sibling group who are under the age of fourteen (14) as guardian *ad litem*, pursuant to Section [32A-1-7](#) NMSA 1978, and to represent the children in the sibling group who are fourteen (14) years of age or older as attorney, pursuant to Section [32A-1-7.1](#)

NMSA 1978.

(2) Except as provided in Subparagraph (3) below, an attorney must decline to represent one or more siblings in the same or related abuse and neglect proceedings, and the court must appoint a separate attorney to represent the sibling or siblings, if, at the outset of the proceedings, a concurrent conflict of interest exists. Such conflict of interest exists if the representation of one child will be directly adverse to another child or there is a significant risk that the representation of one or more of the children will be materially limited by the attorney's responsibilities to another client, a former client or a third person, or by a personal interest of the attorney.

(3) Notwithstanding the existence of a concurrent conflict of interest, an attorney may represent a child if each of the following conditions is met:

(a) the attorney reasonably believes that the attorney will be able to provide competent and diligent representation to each affected sibling;

(b) the representation is not prohibited by law;

(c) the representation does not involve the assertion of a claim by one sibling against another sibling represented by the same attorney in the same proceeding;

(d) the representation does not involve cases in which there exists either evidence or an allegation that one of the siblings has abused or is likely to abuse another of the siblings; and

(e) any sibling age fourteen (14) or over who is to be represented by the attorney gives informed consent, confirmed in writing, pursuant to Rule [16-107](#) NMRA, and the attorney determines that the representation does not adversely affect the representation of the best interests of any of the younger siblings. [N.M. Sup. Ct. R. 10-313.1\(A\)](#)

- "court-appointed special advocate" or "CASA" means a person appointed as a CASA, pursuant to the provisions of the Children's Court Rules [[10-101](#) NMRA], who assists the court in determining the best interests of the child by investigating the case and submitting a report to the court [Children's Code 32A-1-4\(D\)](#)

- "guardian ad litem" means an attorney appointed by the children's court to represent and protect the best interests of the child in a court proceeding; provided that no party or employee or representative of a party to the proceeding shall be appointed to serve as a guardian ad litem [Children's Code 32A-1-4\(J\)](#)

2. Out of Court -

Unless a child's circumstances render the following duties and responsibilities unreasonable, a guardian

Actions to be Taken:  
Meet with child,  
undertake an  
investigation,  
provide advice and  
counseling, file  
pleadings, request  
services, address  
special needs,  
negotiate settlements

ad litem shall:

- (1) meet with and interview the child prior to custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews and any other hearings scheduled in accordance with the provisions of the Children's Code;
- (2) communicate with health care, mental health care and other professionals involved with the child's case;
- (3) review medical and psychological reports relating to the child and the respondents;
- (4) contact the child prior to any proposed change in the child's placement;
- (5) contact the child after changes in the child's placement;
- (6) attend local substitute care review board hearings concerning the child and if unable to attend the hearings, forward to the board a letter setting forth the child's status during the period since the last local substitute care review board review and include an assessment of the department's permanency and treatment plans;
- (7) report to the court on the child's adjustment to placement, the department's and respondent's compliance with prior court orders and treatment plans and the child's degree of participation during visitations; and
- (8) represent and protect the cultural needs of the child. [Children's Code 32A-1-7\(E\)](#)

A guardian ad litem shall receive notices, pleadings or other documents required to be provided to or served upon a party. A guardian ad litem may file motions and other pleadings and take other actions consistent with the guardian ad litem's powers and duties. [Children's Code 32A-1-7\(H\)](#)

The children's court attorney shall give notice to all parties, including the child by and through the child's guardian ad litem or attorney, the child's CASA, a contractor administering the local substitute care review board and the child's foster parent or substitute care provider of the time, place and purpose of any permanency hearing or permanency review hearing held pursuant to this section. [Children's Code 32A-4-25.1\(H\)](#)

A. All records or information concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding shall be confidential and closed to the public.

- B. The records described in Subsection A of this section shall be disclosed only to the parties and...
- (2) court-appointed special advocates;
  - (3) the child's guardian ad litem...[Children's Code 32A-4-33](#)

CONTACT AND CONTINUITY OF COUNSEL STANDARDS

*After consultation with the youth/client:*

- The YA contacts the youth in advance of custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, and other court proceedings to ascertain the need for witnesses or other evidence to be presented; the YA contacts the youth prior to mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children's Code;
- The YA counsels the youth, in a manner understandable to the client, on the subject matter of the litigation, the rights of the custodial and non-custodial parent, the court system, the proceedings, the YA's role, and what to expect in the legal process;
- The YA explains court orders and their consequences to the youth;
- The YA is accessible to the youth through office hours, telephone/voice mail, fax, or email;
- The YA attends treatment team meetings, administrative hearings, Citizen Review Board meetings, and other conferences and staffings concerning the youth, whenever appropriate;
- The YA discusses with the youth the nature of an appeal. If the appeal has merit, the YA takes all necessary steps to perfect the appeal and seeks appropriate temporary orders or extraordinary writs to protect the interests of the child during the pendency of appeal;
- Whenever an appeal is taken, the YA enters an appearance and YA representation continues through any appellate proceedings unless representation is otherwise arranged;
- If there is no appeal, YA representation continues through dismissal unless removed or relieved by the court;
- At cessation of representation, the YA discusses the end of the legal representation and determines what contacts, if any, he/she and the youth will continue to have.

STANDARDS FOR GATHERING AND REVIEWING INFORMATION

*After consultation with the youth/client:*

- The YA is responsible for gathering and reviewing information, including:
  - Interviews with the youth, foster parents and other caretakers, caseworkers, and service providers; and interviews as appropriate with the parents, school personnel, neighbors, relatives, clergy, law enforcement, and others;

- Contact with lawyers for other parties and the CASA;
- Review of the youth's, respondent's, and family's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case, including placement records, as available;
- Review of the court files of the youth, respondent, and family; and case-related records of the social service agency and other service providers; and
- Review of photographs, videos, or audiotapes and other evidence.
- The YA obtains the necessary authority for the release of information; and
- The YA personally observes the youth's interaction with parents, or with whomever the youth may be reunited, when reunification is anticipated, as needed.

CASE PLANNING STANDARDS

*After consultation with the youth/client:*

- The YA consults with the social worker, and health care, mental health care, and other professionals involved with the youth's service plan;
- The YA requests services (by court order if necessary) to meet the youth's needs, to protect the youth's interests, and to ensure a comprehensive service plan. These services may include but are not limited to:
  - Screening and diagnostic services
  - Family preservation or reunification services;
  - Home-based services;
  - Sibling and family visitation;
  - Child Support;
  - Domestic violence prevention, intervention and treatment;
  - Medical and mental health care;
  - Drug and alcohol treatment;
  - Parenting education;
  - Semi-independent and independent living services;
  - Long-term foster care;
  - Termination of parental rights action;
  - Adoption related services;
  - Education;
  - Recreational or social services;
  - Housing;

- Special education and related services; and
- Supplemental security income (SSI) to help support needed services.
- The YA determines the appropriateness of the youth and/or the YA attending local Citizen Review Board hearings concerning the youth; if neither the youth nor YA attend, the YA forwards to the board a letter stating the youth's status during the period since the last review and an assessment of CYFD's permanency and treatment plans;
- The YA monitors implementation of the case plan;
- The YA communicates with the Court-Appointed Special Advocate (CASA); and
- The YA communicates to the Court the youth's position on the service plans for the youth and respondent; issues about the youth's placement; and the youth's goals. [Performance Standards for Court-Appointed Attorneys in Child Abuse & Neglect Cases](#), adopted by the New Mexico Supreme Court.

#### CONTACT AND CONTINUITY OF COUNSEL STANDARDS

- The GAL meets with the child and the child's caregiver in advance of custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, and other court proceedings to ascertain the need for witnesses or other evidence to be presented; the GAL also meets with the child and the child's caregiver prior to mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children's Code;
- The GAL counsels the child, in a developmentally appropriate manner, concerning the subject matter of the litigation, the child's rights, the court system, the proceedings, the GAL's role, and what to expect in the legal process;
- The GAL facilitates the child's participation in court hearings, especially if the child is 12 or older, unless it is determined to not be in the child's best interest;
- The GAL explains court orders and their consequences to the child;
- The GAL contacts the child prior to and after any change in the child's placement, whenever possible;
- The GAL contacts the child in the event of an emergency or significant event impacting the child;
- The GAL is accessible to the child through office hours, telephone/voice mail, fax, or email;
- The GAL attends treatment team meetings, administrative hearings, citizen review board meetings, school case conferences and staffings concerning the child whenever possible;

- As appropriate, the GAL pursues issues on behalf of the child, administratively or judicially, even if those issues do not specifically arise from the court appointment; for example: school/education issues, especially a child with disabilities; and mental health proceedings;
- In the event of a change of venue, the originating GAL remains on the case until a new GAL is appointed by the court in the new venue and the new GAL has communicated with the former GAL;
- The GAL discusses with the child, as developmentally appropriate, the nature of an appeal. If the appeal has merit, the GAL takes all necessary steps to perfect the appeal and seeks appropriate temporary orders or extraordinary writs to protect the interests of the child during the pendency of appeal;
- Whenever an appeal is taken, the GAL enters an appearance and GAL representation continues through any appellate proceedings unless representation is otherwise arranged;
- If there is no appeal, GAL representation continues through dismissal unless removed or relieved by the court;
- At cessation of representation, the GAL discusses the end of the legal representation and determines what contacts, if any, he/she and the child will continue to have.

STANDARDS FOR GATHERING AND REVIEWING INFORMATION

- The GAL is responsible for gathering and reviewing information, including:
  - Interviews with the child, foster parents and other caretakers, caseworkers, and service providers; and interviews as appropriate with the parents, school personnel, neighbors, relatives, clergy, law enforcement, and others;
  - Contact with lawyers for other parties and the CASA;
  - Review of the child's, respondent's, and family's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case, as available;
  - Review of the court files of the child, respondent, and family; and case-related records of the social service agency and other service providers; and
  - Review of photographs, videos, or audiotapes and other evidence;
- The GAL obtains the necessary authority for the release of information;
- The GAL personally observes the child's interaction with parents, or with whomever the child may be reunited, when reunification is anticipated; and
- The GAL personally observes every residence at which the child is placed promptly after the child is placed at the residence to determine and facilitate the safety and well being of the child.

#### CASE PLANNING STANDARDS

- The GAL consults with the social worker, and health care, mental health care, and other professionals involved with the child's care;
- The GAL requests services (by court order if necessary) to meet the child's needs, to protect the child's interests, and to ensure a comprehensive service plan. These services may include but are not limited to:
  - Screening and diagnostic services
  - Family preservation or reunification services;
  - Home-based services;
  - Sibling and family visitation;
  - Child Support;
  - Domestic violence prevention, intervention and treatment;
  - Medical and mental health care;
  - Drug and alcohol treatment;
  - Parenting education;
  - Semi-independent and independent living services;
  - Long-term foster care;
  - Termination of parental rights action;
  - Adoption related services;
  - Education;
  - Recreational or social services;
  - Housing.
  - Special education and related services; and
  - Supplemental security income (SSI) to help support needed services.
- The GAL attends local Citizen Review Board hearings concerning the child and, if unable to attend the hearings, forwards to the board a letter stating the child's status during the period since the last review and an assessment of CYFD's permanency and treatment plans;
- The GAL communicates with the Court-Appointed Special Advocate (CASA); and
- The GAL monitors implementation of the case plan. [Performance Standards for Court-Appointed Attorneys in Child Abuse & Neglect Cases](#), adopted by the New Mexico Supreme Court.

A. Information subject to disclosure. Unless a shorter period of time is ordered by the court, not less

than fifteen (15) days prior to any adjudicatory hearing or termination of parental rights hearing, the child's guardian *ad litem* or attorney shall disclose and make available to the parties:

(1) a statement of the child's declared position appertaining to the adjudication, disposition or termination of parental rights;

(2) a statement of the guardian *ad litem's* position appertaining to the adjudication, disposition or termination of parental rights;

(3) any books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are in the possession, custody or control of the child's guardian *ad litem* or attorney, and which the child's guardian *ad litem* or attorney intends to introduce in evidence at the adjudicatory hearing or termination of parental rights hearing or which were prepared by a witness whom the child's guardian *ad litem* or attorney intends to call at the adjudicatory hearing or termination of parental rights hearing;

(4) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, in the possession or control of the child's guardian *ad litem* or attorney, which the child's guardian *ad litem* or attorney intends to introduce in evidence at the adjudicatory hearing or termination of parental rights hearing or which were prepared by a witness whom the child's guardian *ad litem* or attorney intends to call at the adjudicatory hearing or termination of parental rights hearing; and

(5) a list of the names and addresses of the witnesses the child's guardian *ad litem* or attorney intends to call at the adjudicatory hearing or termination of parental rights hearing, together with any recorded or written statement made by any identified witness.

B. Examining, photographing or copying evidence. The parties may examine, photograph or copy any material disclosed pursuant to Paragraph A of this rule.

C. Information not subject to disclosure. Except as to scientific or medical reports, this rule does not authorize the discovery or inspection of:

(1) reports, memoranda or other internal defense documents made by the child's guardian *ad litem* or attorney in connection with the investigation or defense of the case;

(2) statements made by the child to the child's guardian *ad litem* unless such statements contradict prior statements made by the child in connection with any allegation of abuse or neglect; or

(3) statements made by the child to the child's attorney.

D. Certificate. The child's guardian *ad litem* or attorney shall file with the clerk of the court at least ten (10) days prior to the adjudicatory hearing or termination of parental rights hearing a certificate stating that all information required to be produced pursuant to Paragraph A of this rule has been produced, except as specified. The certificate shall contain an acknowledgment of the continuing duty

	<p>to disclose additional information. If information specifically excepted from the certificate is furnished by the child's guardian <i>ad litem</i> or attorney after the filing of the certificate, a supplemental certificate shall be filed with the court setting forth the material furnished. A copy of the certificate and any supplemental certificate shall be served on the parties.</p> <p>E. Failure to comply. If the child's guardian <i>ad litem</i> or attorney fails to comply with any of the provisions of this rule, the court may enter any order pursuant to Rule <a href="#">10-137</a> NMRA or Rule <a href="#">10-165</a> NMRA. <a href="#">N.M. Sup. Ct. R. 10-333.</a></p>
<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>An attorney shall represent a child in a proceeding for which the attorney has been retained or appointed. The attorney shall provide the same manner of legal representation and be bound by the same duties to the child as is due an adult client, in accordance with the rules of professional conduct. <a href="#">Children's Code 32A-1-7.1(A)</a></p> <p>At the permanency review hearing, all parties and the child's guardian ad litem or attorney shall have the opportunity to present evidence and cross-examine witnesses. <a href="#">Children's Code 32A-4-25.1(E)</a></p> <p>Court Performance Standards</p> <p><i>After consultation with the youth/client:</i></p> <ul style="list-style-type: none"> <li>• The YA participates in custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, other court proceedings, and mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children's Code;</li> <li>• The YA reports to the court on the youths' compliance with prior court orders and treatment plans;</li> <li>• The YA presents evidence of the reasonableness or unreasonableness of the Department's efforts and on alternative efforts that could have been made;</li> <li>• The YA participates in mediation;</li> <li>• The YA stays informed of the youth and family's involvement with family group decision making, family drug court, and other court sanctioned programs;</li> <li>• The YA files petitions, motions, and responses and makes objections as necessary to represent the youth. If appropriate, the YA files briefs in support of evidentiary issues. During all hearings, the YA preserves legal issues for appeal, as appropriate. Relief requested may include but is not limited to: <ul style="list-style-type: none"> <li>○ Obtaining necessary services;</li> <li>○ A mental or physical examination of a party or the youth;</li> <li>○ A parenting, custody, or visitation evaluation;</li> </ul> </li> </ul>

- An increase, decrease, or termination of contact or visitation;
  - Requesting, restraining, or enjoining a change of placement;
  - Contempt for non-compliance with a court order;
  - Termination of the parent-child relationship;
  - Child support;
  - A protective order concerning the youth's privileged communication or tangible property; and
  - Dismissal of petitions or motions.
- The YA presents and cross examines witnesses, offers exhibits, and provides independent evidence as necessary;
  - The YA prepares the youth to testify; the YA familiarizes the youth with court procedures, and what to expect during direct and cross-examination;
  - The YA requests orders that are clear, specific, and, where appropriate, include a time line for assessment, services, and evaluation;
  - The YA reviews all written orders to ensure that they conform with the court's verbal orders and statutorily required findings and notices;
  - The YA monitors the implementation of the court's orders and reports any noncompliance;
  - If appropriate, the YA makes a closing argument and provides proposed findings of fact and conclusions of law. The YA ensures that a written order is entered;
  - The YA works diligently to avoid continuances and reduce delays in court proceedings
- [Performance Standards for Court-Appointed Attorneys in Child Abuse & Neglect Cases](#), adopted by the New Mexico Supreme Court.

#### Court Performance Standards

- The GAL participates in custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, other court proceedings, and mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children's Code;
- The GAL reports to the court on the child's adjustment to placement, the Department's and the respondents' compliance with prior court orders and treatment plans, and the child/parent interaction during visitation;
- The GAL participates in mediation;
- The GAL stays informed of the child and family's involvement with family group decision making, family drug court, and other court sanctioned programs;

	<ul style="list-style-type: none"> <li>• The GAL files petitions, motions, and responses and make objections as necessary to represent the child’s best interests. If appropriate, the GAL files briefs in support of evidentiary issues. During all hearings, the GAL preserves legal issues for appeal, as appropriate. Relief requested may include but is not limited to: <ul style="list-style-type: none"> <li>○ Obtaining necessary services;</li> <li>○ A mental or physical examination of a party or the child;</li> <li>○ A parenting, custody, or visitation evaluation;</li> <li>○ An increase, decrease, or termination of contact or visitation;</li> <li>○ Requesting, restraining, or enjoining a change of placement;</li> <li>○ Contempt for non-compliance with a court order;</li> <li>○ Termination of the parent-child relationship;</li> <li>○ Child support;</li> <li>○ A protective order concerning the child’s privileged communication or tangible property; and</li> <li>○ Dismissal of petitions or motions.</li> </ul> </li> <li>• The GAL presents and cross examines witnesses, offers exhibits, and provides independent evidence as necessary;</li> <li>• The GAL prepares the child to testify, when appropriate. The GAL familiarizes the child with the courtroom, court procedures, and what to expect during direct and cross-examination. The GAL makes an effort to ensure (including making objections) that testifying will cause minimum harm to the child;</li> <li>• The GAL requests orders that are clear, specific, and, where appropriate, include a time line for assessment, evaluation, services, placement, treatment, and evaluation of the child and family;</li> <li>• The GAL reviews all written orders to ensure that they conform with the court’s verbal orders and statutorily required findings and notices;</li> <li>• The GAL monitors the implementation of the court’s orders and reports any noncompliance;</li> <li>• If appropriate, the GAL makes a closing argument and provides proposed findings of fact and conclusions of law. The GAL ensures that a written order is entered; and</li> <li>• The GAL works diligently to avoid continuances and reduce delays in court proceedings.</li> </ul> <p><a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p>
<p>4. Post-Hearing: Review courts order,</p>	<p>The YA monitors the implementation of the court’s orders and reports any noncompliance.</p> <p><a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by</p>

<p>communicate order to child, and monitor implementation of orders</p>	<p>the New Mexico Supreme Court.</p> <p>The GAL monitors the implementation of the court’s orders and reports any noncompliance. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>Unless excused by a court, an attorney appointed to represent a child shall represent the child in any subsequent appeals. <a href="#">Children’s Code 32A-1-7.1(b)</a></p> <p>Any party may appeal from a judgment of the court to the court of appeals in the manner provided by law. The appeal shall be heard by the court of appeals upon the files, records and transcript of the evidence of the court. Absent an order of the appellate court, files and records that are required to be kept confidential and closed to the public, pursuant to any provision of the Children's Code shall be kept confidential and closed to the public on appeal. <a href="#">Children’s Code 32A-1-17</a></p> <p>The GAL discusses with the child, as developmentally appropriate, the nature of an appeal. If the appeal has merit, the GAL takes all necessary steps to perfect the appeal and seeks appropriate temporary orders or extraordinary writs to protect the interests of the child during the pendency of appeal. Whenever an appeal is taken, the GAL enters an appearance and GAL representation continues through any appellate proceedings unless representation is otherwise arranged. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p> <p>The YA discusses with the youth the nature of an appeal. If the appeal has merit, the YA takes all necessary steps to perfect the appeal and seeks appropriate temporary orders or extraordinary writs to protect the interests of the child during the pendency of appeal. Whenever an appeal is taken, the YA enters an appearance and YA representation continues through any appellate proceedings unless representation is otherwise arranged. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p>
<p>6. Cessation of Representation: Contacts post representation, if any</p>	<p>If there is no appeal, YA representation continues through dismissal unless removed or relieved by the court. At cessation of representation, the YA discusses the end of the legal representation and determines what contacts, if any, he/she and the youth will continue to have. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p> <p>If there is no appeal, GAL representation continues through dismissal unless removed or relieved by</p>

	<p>the court. At cessation of representation, the GAL discusses the end of the legal representation and determines what contacts, if any, he/she and the child will continue to have. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p>
<p>7. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court</p>	<p>Each Judicial District enters into contracts with attorneys to serve as GALs and Youth Attorneys, using state funds appropriated to the court system. Occasionally the court may appoint an attorney in a given case who does not have a contract.</p>
<p>8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</p>	<p>A. A person who serves as a judge, prosecutor, child's attorney, guardian ad litem, treatment guardian, court appointed attorney, court appointed special advocate, foster parent, mental health commissioner or mental health treatment service provider for a child subject to an abuse or neglect petition, a family in need of services petition or a mental health placement shall receive periodic training, to the extent of available resources, to develop his knowledge about children, the physical and psychological formation of children and the impact of ethnicity on a child's needs. Institutions that serve children and their families shall, considering available resources, provide similar training to institutional staff.</p> <p>B. The training shall include study of:</p> <ol style="list-style-type: none"> <li>(1) cross-cultural dynamics and sensitivity;</li> <li>(2) child development;</li> <li>(3) family composition and dynamics;</li> <li>(4) parenting skills and practices;</li> <li>(5) culturally appropriate treatment plans; and</li> <li>(6) alternative health practices. <a href="#">Children's Code 32A-18-1</a></li> </ol> <p>The YA (Youth Attorney) participates in at least ten (10) hours of relevant annual training. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p>

	<p>The GAL participates in at least ten (10) hours of relevant annual training. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</p> <p>At a minimum, the requisite training programs, including mentoring, should address:</p> <ul style="list-style-type: none"> <li>○ Relevant federal and state laws and agency regulations;</li> <li>○ Relevant court decisions and court rules;</li> <li>○ Court process and key personnel in child and family related litigation;</li> <li>○ Applicable guidelines and standards for representation;</li> <li>○ Child development needs and abilities;</li> <li>○ Family dynamics and dysfunction including substance abuse and the use of kinship care;</li> <li>○ Accessing services such as family preservation, medical, educational, and mental health resources for child clients and their families, including placement, evaluation/diagnostic, and treatment services; the structure of the agencies providing services, as well as provision and constraints related to agency payment for services; and</li> <li>○ Policy and procedure re: the multidisciplinary input required, including information on local experts who can provide consultation and testimony on the reasonableness and appropriateness of effort made to safely maintain the child in his or her home. <a href="#">Performance Standards for Court-Appointed Attorneys in Child Abuse &amp; Neglect Cases</a>, adopted by the New Mexico Supreme Court.</li> </ul>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>The following expenses shall be a charge upon the funds of the court upon their certification by the court:</p> <ul style="list-style-type: none"> <li>(1) reasonable compensation for services and related expenses for counsel appointed by the court;</li> <li>(2) reasonable compensation for services and related expenses of a guardian ad litem or a child's attorney appointed by the court ... <a href="#">Children's Code 32A-1-19(A)</a></li> </ul> <p>The court may order the parent or other person legally obligated to care for and support a child to pay all or part of the costs and expenses pursuant to Subsection A of this section when:</p> <ul style="list-style-type: none"> <li>(1) the child has been found to be a delinquent child, a child of a family in need of court-ordered services, an abused or neglected child or a child with a mental illness or a developmental disability;</li> <li>(2) the parent or other person legally obligated to care for and support a child is given notice and a hearing to determine the parent or person's financial ability to pay the costs and expenses; and</li> </ul>

	<p>(3) the court finds that the parent or person is able to pay all or part of the costs and expenses. <a href="#">Children’s Code 32A-1-19(B)</a></p> <p>The court may order the department to pay attorney fees for the child's guardian ad litem or attorney if:</p> <p>A. the child is in the legal custody of the department;</p> <p>B. the child's guardian ad litem or the child, through the child's attorney:</p> <p>(1) requests in writing that the department move for the termination of parental rights;</p> <p>(2) gives the department written notice that if the department does not move for termination of parental rights, the guardian ad litem or the child, through the child's attorney, intends to move for the termination of parental rights and seek an award of attorney fees;</p> <p>(3) successfully moves for the termination of parental rights; and</p> <p>(4) applies to the court for an award of attorney fees; and</p> <p>C. the department refuses to litigate the motion for the termination of parental rights or fails to act in a timely manner. <a href="#">Children’s Code 32A-4-30.</a></p>
<p>10. Caseload Levels: Caseloads are of a manageable size</p>	<p><i>No explicit legal authority or requirements.</i></p>