
What Is a Guardian Ad Litem?

This fact sheet tells you what a guardian ad litem is and what they do. It also tells you the difference between a guardian ad litem and a guardian. It may not answer all of your questions. In court, if you have any questions about who speaks for the child, who speaks for the parents, or who has the right to lawyer, **ask** the judge *right away*.

What does “guardian ad litem” mean?

A guardian is a person who acts to protect or help someone. “Ad litem” means “for the lawsuit”. There are different kinds of guardians ad litem for different kinds of cases. In some cases, the judge names a “guardian ad litem” to work with a child or a person who has a disability that makes it hard for them to understand a case that involves them. In other cases, like in custody cases or neglect or abuse cases, a guardian ad litem may be appointed to investigate and stand for the child’s best interests.

What does a guardian ad litem do?

Guardians ad litem tell the court what is best for the child in things like custody and visitation. They do an *independent* investigation. They do not work for court services or child protection.

They talk to the child, the parents and other care-givers. They can talk in private to counselors, teachers, family members and friends, and court services and child protection workers.

They write a report to the court saying what they think the judge should order. The judge does not **have** to do what the guardian says, but will take the report very seriously.

It is important for you to cooperate with the guardian ad litem. Their report can help or hurt your case. Remember: thinking about what is best for your child should be your top priority.

Is the guardian ad litem the child’s lawyer?

No. The guardian ad litem makes their own decision about what is best for the child. It might not be just what the child wants.



Is the guardian ad litem a lawyer?

Not always. In some counties, such as Hennepin, many are lawyers. In other counties, the guardian may be a trained, concerned adult of any background. If the guardian ad litem is not a lawyer, they may have a lawyer that works for them on the case.

When will the judge appoint a guardian ad litem?

- In family court, the judge *must* name a guardian ad litem if the judge thinks the child has been hurt, threatened, or neglected.
- In juvenile court, there *must* be a guardian ad litem in cases about a child who is neglected, in foster care, or a child in need of protective services (CHIPS cases).
- The judge *can* name a guardian ad litem in other family or juvenile cases, but does not have to.

Who pays for the guardian ad litem?

Guardians ad litem may work free or for a fee. If there is a fee, the court will say who has to pay it. If you get MFIP or other public aid, if you have a legal aid lawyer, or if you have a low income, you will not have to pay.

Can the parents or the child have their own lawyer?

The parents always have the right to hire their own lawyer.

- In *juvenile court*, if the parents cannot afford a lawyer they may have the right to a free one. In most juvenile court cases, the child also has the right to a free lawyer if the child cannot afford one. (The court may make the parents pay for the child's lawyer, if they can afford it.)
- In *family court*, the child does not have the right to a lawyer. The parents have the right to a lawyer, but not to a free one.



What is the difference between a guardian and a guardian ad litem?

A guardian is much different than a guardian ad litem. A guardian, or custodian, has "custody" of the child and acts as the parent. They make the decisions about a child and pays for the child's needs. The guardian decides where the child lives and how the child is brought up.

A guardian ad litem does not have custody of or take care of the child. They work with the court to find out what is in the child's best interest in the court case.

Many people, including judges and lawyers, call a guardian ad litem "guardian" for short. Remember that the two are very different.

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To find your local legal aid office by county go to www.lawhelpmn.org/resource/legal-aid-offices

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