

Readopt with amendment Gal 500, effective 10-21-16 (Document #12010), to read as follows:

CHAPTER Gal 500 ETHICAL STANDARDS AND STANDARDS OF PRACTICE

PART Gal 501 PURPOSE AND SCOPE

Gal 501.01 Purpose. The purpose of this chapter is to:

- (a) Inform guardians ad litem certified in New Hampshire of certain requirements of their roles when appointed to a case by a court;
- (b) Inform members of the public of the ethical standards and standards of practice applicable to guardians ad litem certified in New Hampshire; and
- (c) Establish ethical standards and standards of practice to maintain a high standard of integrity and professionalism in the activities of guardians ad litem certified in this state.

Gal 501.02 Scope. These rules shall be binding upon:

- (a) Every person who holds ~~board certification of any type~~ as a guardian ad litem in the state of New Hampshire; and
- (b) In accordance with RSA 490-C:4, I(e), formerly certified guardians ad litem alleged to have engaged in acts or omissions prohibited when certified.

PART Gal 502 DEFINITIONS

Gal 502.01 “Appointing court” means a court which appoints a guardian ad litem to serve in a particular case.

Gal 502.02 “Central registry of founded abuse and neglect reports” means the registry established ~~under~~**by** RSA 169-C:35.

Gal 502.03 “Constituent” means a person who is a resident of a community represented by an elected official.

Gal 502.04 “Elected official” means any person who has been elected to a public office of any type, whether at the local, school district, county, state, federal, or any other level.

Gal 502.05 “Frivolous” means without merit and without a good faith justification in fact, allegations of fact, law, or reason.

Gal 502.06 “Good faith” means a subjective state of mind or a set of circumstances involving an honest belief that is:

- (a) Based upon reason and facts or allegations of fact; and
- (b) Not formed to accomplish a violation of the law, to advance a malicious objective, or to advance an objective that is not allowed by law.

Gal 502.07 “Party” means a person or entity against or by whom a civil, criminal, equity or other court proceeding of any type is directly brought or maintained, or who intervenes in such proceeding and is granted the status of a party, and not the attorney of that person or entity.

Gal 502.08 “Publicly-funded case” means a case in which the costs or expenses of one or more of the parties are paid by the state, or any political subdivision of the state, whether or not those costs or expenses are subsequently reimbursed.

Gal 502.09 “Specific court” means the particular court that hears cases arising in a defined geographical area, such as a particular superior court which hears cases that arise in a particular county, for example, the Superior Court of Merrimack County, or a particular district court hearing cases that arise in a particular municipality or group of municipalities, for example, the Claremont District Court.

Gal 502.10 “Writing” means a hard-copy paper document, an e-mail, a facsimile transmission, or an electronic communication of words in other than an oral format, which can be printed onto paper.

PART Gal 503 GENERAL ETHICAL STANDARDS AND STANDARDS OF PRACTICE

Gal 503.01 Applicability of Sanctions for Violations of Ethical Standards and Standards of Practice. ***The standards in Plc 311.10 and Plc 311.11 shall be applied when determining appropriate sanctions.***

~~— (a) All guardians ad litem certified by the board shall abide by the ethical standards and standards of practice set forth in this chapter.~~

~~— (b) All persons presently or formerly certified under RSA 490-C shall be deemed to have knowledge of the existence of these ethical standards and standards of practice and to have familiarity with their provisions.~~

~~— (c) A finding by the board that a guardian ad litem presently certified by the board has violated these ethical standards and standards of practice shall result in the imposition of sanctions unless the board determines that the matter involves extenuating circumstances, determined according to the standards set forth in paragraph (e) below.~~

~~— (d) In accordance with RSA 490-C:4, I(e), a finding by the board that a formerly certified guardian ad litem alleged to have engaged in acts or omissions prohibited when certified has violated these ethical standards and standards of practice shall result in the imposition of sanctions unless the board determines that the matter involves extenuating circumstances, determined according to the standards set forth in paragraph (e) below.~~

~~— (e) The board shall find that extenuating circumstances exist if it determines that:~~

~~(1) Imposing sanctions would not assist the person in conforming his or her future conduct to the requirements of these rules or other applicable law;~~

~~(2) The purposes that would be served by imposing sanctions have been fully fulfilled;~~

~~(3) The absence of imposing sanctions would be unlikely to pose a risk of harm to the interests or welfare of any recipient of services or potential recipient of services; and~~

~~(4) The reasons supporting the decision not to impose sanctions outweigh any adverse impact on general deterrence or on public perception that may arise from the absence of sanctions.~~

~~— (f) Unless the board determines that extenuating circumstances exist under paragraph (e) above, a finding by an appointing court that a guardian ad litem, or formerly certified guardian ad litem within the meaning of RSA 490-C:4, I(e), has violated any of the following shall be grounds for discipline and shall result in sanctions by the board under these ethical standards and standards of practice:~~

- ~~(1) Any statute relating to the duties and activities of, or the procedures applicable to, guardians ad litem, either in general or in regard to the particular type of case to which he or she has been appointed;~~
- ~~-~~
- ~~(2) The rules, standing orders, or administrative orders of the appointing court, including any applicable guidelines for guardians ad litem adopted under RSA 461-A:16 or other law; or~~
- ~~-~~
- ~~(3) Any standards of court practice or protocols found by the court to be applicable to the guardian ad litem in the case to which he or she has been appointed.~~
- ~~-~~
- ~~— (g) Pursuant to RSA 490-C:4, I(g), upon the receipt of a written allegation or complaint against a certified or formerly certified guardian ad litem who holds, held or may hold an appointment in a case under the authority of a court, the board may refer that matter to the appropriate court for investigation, resolution or other action, either in lieu of, or in addition to, the investigatory or disciplinary procedures of the board.~~

Gal 503.02 General Obligations of All Guardians Ad Litem.

- (a) Unless otherwise specified in an order or other instruction of the appointing court, a guardian ad litem shall at all times act as a reasonable person would in the best interests of the recipient of services.
- (b) A guardian ad litem shall reach an independent conclusion about what is in the best interest of the recipient of services or such other matter as may be required by the orders or instructions of the appointing court.
- (c) A guardian ad litem shall perform those duties assigned to ~~them~~**him or her** by the appointing court.
- (d) A guardian ad litem shall, in good faith:
 - (1) Formulate a recommendation, or such other report as is directed by the appointing court, as is intended to address the best interests of the recipient of services or such other matter as directed by the orders or other instructions of the appointing court; and
 - (2) Develop a presentation to the court that is designed to achieve results that are in the best interests of the recipient of services or such other result as set forth in the orders or other instructions of the appointing court.
- (e) A guardian ad litem who believes that ~~they are~~**he or she** is deficient in skill or knowledge regarding a material issue in a case shall take such action as ~~they~~**he or she**, in good faith, believe:
 - (1) Will enable ~~them~~**him or her** to obtain such skill or knowledge; and
 - (2) Is consistent with the best interests of the recipient of services.
- (f) A guardian ad litem shall seek to enlist the assistance of a person or persons that the guardian ad litem believes, in good faith, possesses skill and knowledge relative to a material issue if the guardian ad litem believes that to do so is necessary under paragraph (e) above.
- (g) If a guardian ad litem believes, in good faith, that there is no action that will enable ~~them~~**him or her** to obtain the skill or knowledge necessary under paragraph (e) above, the guardian ad litem shall so advise the appointing court.
- (h) A guardian ad litem shall comply with all statutes and case law relating to the duties and activities of, and the procedures applicable to, guardians ad litem in general and to the duties and

activities of, and procedures applicable to, guardians ad litem in the particular type of case to which ***they have*** ~~he or she has~~ been appointed.

(i) A guardian ad litem shall be able to identify the material legal and factual issues raised in the proceeding in which ***they serve*** ~~he or she serves~~.

(j) A guardian ad litem shall make those reports required by the Child Protection Act, RSA 169-C:29.

(k) A guardian ad litem shall make those reports required by RSA 161-F: 46.

Gal 503.03 Timeliness. A guardian ad litem shall:

(a) Undertake actions on behalf of a recipient of services in a manner that is sufficiently timely to avoid prejudice to the best interests of the recipient of services or such other object of appointment as specified in the orders or other instructions of the appointing court;

(b) Adhere to all applicable deadlines imposed by an appointing court or by statute;

(c) Timely appear for all scheduled hearings, conferences, mediation sessions, and other court proceedings, unless excused by the court; and

(d) Timely appear for all appointments with a recipient of services, witness, attorneys, or other individual involved in a case to which a guardian ad litem has been appointed, unless:

(1) Alternative arrangements have been made in advance of the time scheduled for an appointment; or

(2) The inability to ~~timely~~ appear ***timely*** for the appointment is due to circumstances beyond the control of the guardian ad litem and the reasons for the inability to appear are conveyed as soon as is practicable to the person with whom the appointment was made.

Gal 503.04 Competency.

(a) A guardian ad litem shall carry out the duties of ~~this or her~~ ***their*** appointment with sufficient competence to complete the work without avoidable harm to the best interests of the recipient of services.

(b) The competence required by (a) above shall include:

(1) Diligence, attention to detail, and promptness in the scheduling and performance of the duties of the appointment;

(2) Preparation for the meetings, interviews, and court appearances required by the appointment;

(3) Knowledge of the New Hampshire statutory and case law applicable to the duties of a guardian ad litem in the type of case to which ***they have*** ~~he or she has~~ been appointed;

(4) Knowledge of these rules; and

(5) Knowledge of the procedures and requirements of the appointing court sufficient to carry out the duties of the appointment.

Gal 503.05 Advocacy.

(a) A guardian ad litem shall not adopt or assert a position, or make a recommendation, unless ~~he or she possesses~~ ***there is*** a basis for doing so that is not frivolous.

(b) A position adopted or asserted under (a) above may include a good faith argument for the extension, modification, or reversal of existing law.

(c) A guardian ad litem shall endeavor to expedite the conclusion of the case to the extent that ***they*** ~~he or she~~, in good faith, believes that to do so is consistent with the best interests of the recipient of services or such other purpose of his or her appointment as is set forth in the orders or other instructions of the appointing court.

Gal 503.06 Disclosures, Conflicts of Interest and Appearances of Impropriety.

(a) A guardian ad litem who is aware that ~~there exists~~ ***there is*** ~~he or she possesses~~ a prior acquaintance of any type, including but not limited to a ***personal, professional, business, or legal relationship*** ~~professional, personal, or financial relationship~~, with any party in a case, shall:

(1) At or before the time of appointment, disclose such fact to the parties and the appointing court, either orally or in writing; and

(2) If such an acquaintance becomes known only after appointment, immediately disclose such fact to the parties and the appointing court, either orally or in writing.

(b) A guardian ad litem shall:

(1) Seek to decline appointment in a proceeding where ***there is*** ~~he or she has~~ a present or prior personal, professional, business, or legal relationship with any party involved in the proceeding that the guardian reasonably believes would adversely impact upon his or her ability to perform the functions of a guardian ad litem in accordance with these rules and in accordance with any requirements of the appointing court; and

(2) If a relationship described in (a) (1) above arises after appointment, advise the court of the existence of such a relationship and seek an order regarding whether or not ~~he or she~~ ***they*** must withdraw.

(c) If it is alleged by a party to any proceeding in which a guardian ad litem is appointed that the guardian ad litem has failed to disclose any present or prior acquaintance of any type that impacts upon ~~his or her~~ ***their*** objectivity, or upon ~~his or her~~ ***their*** ability to perform the functions of a guardian ad litem in accordance with these rules or in accordance with requirements of the appointing court, the guardian ad litem shall:

(1) Inform the appointing court that the allegation has been made; and

(2) Respond either orally or in writing to the appointing court and to all parties regarding the nature of the present or prior acquaintance, if any.

(d) A guardian ad litem shall immediately disclose to the appointing court ~~and to the board~~ the existence of any civil, equity or other writ or petition, or criminal charge, of which ***they are*** ~~he or she is~~ aware, alleging that any of the following persons have engaged in child abuse or neglect, as that term is used within the meaning of RSA 169-C, or that any of the following persons have engaged in adult abuse, as that term is used within the meaning of RSA 161-F:

(1) The guardian ad litem him or herself;

(2) The guardian ad litem's spouse;

(3) The parent or guardian of a child of the guardian ad litem where the child is the alleged victim; ~~or~~ ***and***

(4) Any person with whom the guardian ad litem resides.

(e) Unless otherwise allowed by the appointing court after disclosure by the guardian ad litem, no guardian ad litem shall serve on any case if a civil, equity or other writ or petition, or criminal charge, of child abuse or neglect, or adult abuse in violation of RSA 161-F, is pending against ~~them-him or her~~.

(f) If a guardian ad litem is a party to any case in a specific court, other than in ~~their his or her~~ capacity as a guardian ad litem, ~~he or she~~ ***they*** shall not serve as a guardian ad litem in that specific court unless:

(1) ~~He or she~~ ***They*** immediately discloses to the judge making the appointment that ***they are*** ~~he or she is~~ a party to a case in the specific court, as well as the name and nature of any such case, and requests direction from the appointing court as to service or continued service as a guardian ad litem; and

(2) After such disclosure, the judge appoints the person to serve as a guardian ad litem, or consents to the person's continued service as a guardian ad litem, provided that during the pendency of any decision by the appointing court as to continued service, the guardian ad litem may continue to serve.

(g) No person shall serve as a guardian ad litem if that person is a party to a pending, contested matter, other than in ~~their his or her~~ capacity as a guardian ad litem, involving issues of fact or law similar to, or the same as, those that may be raised in a case to which the person may be appointed as guardian ad litem unless:

(1) ~~He or she~~ ***They*** immediately discloses to the judge making the appointment that ***they are*** ~~he or she is~~ a party to the pending, contested matter involving issues of fact or law similar to, or the same as, those that might be raised in a case to which the person might be appointed as guardian ad litem, as well as the name and nature of any such case, and requests direction from the appointing court as to service or continued service as a guardian ad litem; and

(2) After such disclosure, the judge appoints the person to serve as a guardian ad litem, or consents to the person's continued service as a guardian ad litem, provided that during the pendency of any decision by the appointing court as to continued service, the guardian ad litem may continue to serve.

(h) Whenever a guardian ad litem is, or becomes, a party, except solely by virtue of ~~his or her~~ ***their*** appointment as a guardian ad litem, to any proceeding in any court, regardless of the capacity in which ***they are*** ~~he or she is~~ named as a party, the guardian ad litem shall immediately notify the following authorities of the existence of the case, describing the nature of the case in such notification:

(1) The appointing court;

(2) The administrative judge designated under New Hampshire supreme court rule 54 for each court in which the person is serving as a guardian ad litem, or, if the guardian ad litem is appearing before the supreme court, the clerk of the supreme court; and

(3) The ***office of professional licensure and certification (OPLC)***~~board~~.

(i) A guardian ad litem shall not serve in a case if ~~he or she has~~ ***they have*** any financial relationship with any counsel on the case or any material witness unless:

(1) ~~He or she~~ ***They*** immediately discloses to the judge making the appointment that ***they have*** ~~he or she has~~ such a financial relationship, as well as the nature of any such relationship, and requests direction from the appointing court as to service or continued service as a guardian ad litem; and

(2) After such disclosure, the judge appoints the person to serve as a guardian ad litem, or consents to the person's continued service as a guardian ad litem provided that during the pendency of any decision by the appointing court as to continued service, the guardian ad litem may continue to serve.

Gal 503.07 Business Transactions.

(a) Except for the guardian ad litem's fee agreement, a guardian ad litem shall not, during the term of ~~their~~~~his or her~~ appointment, enter into any business transaction with a recipient of services, a party, counsel for a party, or a material witness.

(b) A guardian ad litem shall not possess an ownership, possessory, security, or other pecuniary interest of any type that is unfavorable to a recipient of services, unless the appointing court, after full disclosure to it of the nature of the interest, allows the guardian ad litem to serve while still in the possession of the interest.

(c) Except for the guardian ad litem's fee agreement, a guardian ad litem shall not, without the express written agreement of all of the parties, enter into a business relationship of any type with any of the following persons during the time of the guardian ad litem's appointment in a case, or for a period of 6 months after the appointment has ended:

(1) The recipient of services; or

(2) If the case to which the guardian ad litem was appointed involved child custody, any party to the case.

Gal 503.08 Special Rules Regarding Guardians Ad Litem Who Are Elected Officials. A guardian ad litem who is an elected official shall, if one or more but not all parties to the proceeding are ~~their~~~~his or her~~ constituents, disclose this fact to the appointing court and to all parties to the proceeding, either orally or in writing, at or before the time of appointment, or, if elected after appointment in an ongoing matter, at the time of election.

Gal 503.09 Communication of Information About Services and Qualifications. A guardian ad litem shall not knowingly misrepresent ~~their~~~~his or her~~ experience, education, certifications, or skills.

Gal 503.10 Fees.

(a) A guardian ad litem appointed by a court and paid by public funds shall not accept any additional payment from any party or other source for services performed on the case, unless otherwise authorized by the court, provided, nonetheless, that a guardian ad litem who has been served with a subpoena may accept a witness or mileage fee authorized by statute, court rule, or other law for appearance pursuant to a subpoena.

(b) If a guardian ad litem in any publicly-funded case files any motion to exceed any cap or limit on fees, the guardian ad litem shall, at or before the time of filing, provide a copy of the motion to the person or persons who may be responsible for the reimbursement of the public funds.

(c) In the case of a private fee arrangement relating to the services of a guardian ad litem, the guardian ad litem shall:

(1) Execute with the responsible parties or party an agreement in writing regarding fees and expenses which specifies:

- a. The person or persons responsible for payment;
- b. The amount of the rate to be charged;
- c. The method for calculating the fees and expenses billed; and
- d. Either:
 1. An estimate of the cost of anticipated expenses and services expected to be performed; or
 2. A specific amount to be charged which will not be exceeded absent an order of the court;

(2) Specify in any agreement in writing under (c) (1) above either:

- a. The allocation of responsibility for payment between or among the parties; or
- b. That the designation or allocation of responsibility for payment may be made by the court and that the court's order relative to payment shall be binding; and

(3) Provide a copy of the agreement in writing described in (c) (1) above to all parties to the agreement.

(d) In the case of a private fee agreement where it is necessary for the guardian ad litem, in order to fulfill ~~their~~^{his or her} obligations, to charge fees in excess of the estimated cost of anticipated expenses and services, or in excess of the specified amount, originally stated under (c)(1)d. above, the guardian ad litem shall:

(1) Provide, in writing, to the parties either:

- a. An adjusted written estimate of the cost of anticipated expenses and services expected to be performed; or
- b. A new specific amount to be charged which will not be exceeded absent an order of the court;

(2) File a motion with the appointing court requesting authorization to charge a specific amount in excess of the initial fee agreement, specifying therein:

- a. The amount of the original estimate or specification;
- b. The specific amount in excess of the original estimate or specification that the guardian ad litem wishes to charge and the reason for the adjustment; and
- c. A statement as to whether or not each of the responsible party or parties consents to the motion; and

(3) Provide a copy of the motion to the person or persons who is or may be responsible for the payment of any fee or cost, at or before the time of the filing of the motion identified in (d)(2) above.

(e) In the case of a private fee agreement that has once been altered under paragraph (d) above in which it is necessary for the guardian ad litem, in order to fulfill ~~their~~***his or her*** obligations, to again exceed any amended amount, the guardian ad litem shall proceed in accordance with paragraph (d) above as to any further agreement.

(f) If, at the conclusion of a case, the guardian ad litem is in possession of any unearned fees, ~~he or she~~***they*** shall return those fees to the person who paid them to the guardian ad litem, or in such other manner as that person or the fee agreement may direct.

(g) A guardian ad litem shall not enter into any contingent fee agreement for ~~their~~***his or her*** services.

Gal 503.11 Gathering and Reporting Facts and Other Information.

(a) A guardian ad litem shall gather such facts and information regarding the family history, background, current circumstances, ***and*** concerns and wishes of the recipient of services, from the recipient of services and from other sources, as will enable the guardian ad litem to:

(1) Form a good faith conclusion about the best interests of the recipient of services or about such other matters as directed by the orders or instructions of the appointing court; and

(2) Conduct ~~his or her~~***their*** duties in conformity with these rules and the instructions of the appointing court.

(b) Unless otherwise instructed by the appointing court, in applying the provisions of (a) above, a guardian ad litem shall:

(1) Not be obligated to contact each witness or reference appearing on any list supplied by any person;

(2) In good faith, exercise independent judgment as to whether or not contact with a particular witness is necessary under the facts of the case; and

(3) Adhere to any specific duties that may arise in the particular type of case to which the guardian ad litem may be appointed, such as those duties regarding contacts and witnesses in domestic relations cases set forth in Gal 504.03.

(c) Unless specifically authorized by the appointing court, any conclusions intentionally sought from a witness during the course of an investigation shall either be:

(1) Obtained in writing; or

(2) Obtained orally by the guardian ad litem ~~him or herself~~ personally contacting the witness.

(d) Unless otherwise specifically authorized by the appointing court, a guardian ad litem shall state the sources of information contained in the guardian ad litem's report and final recommendation and identify the name and title of the person who gathered such information.

Gal 503.12 Meetings and Communications ~~With and Regarding~~ the Recipient of Services.

(a) Unless otherwise provided by the appointing court, a guardian ad litem shall, on at least one occasion prior to making a final recommendation to the appointing court, personally meet in person with the recipient of services.

(b) A guardian ad litem shall provide a recipient of services with that degree of information about the status of a case as the guardian ad litem, in good faith, believes is:

- (1) Necessary in order for the recipient of services to understand the status of the case; and
- (2) In the best interest of the recipient of services.

(c) In making the determination set forth in (b) above, the guardian ad litem shall consider the recipient of service's age, mental state, level of maturity, and any other facts bearing upon the ability of the recipient of services to understand information that is conveyed to ~~them~~**him or her**.

(d) The guardian ad litem shall maintain the confidentiality of communications with the recipient of services, except that such communications may be conveyed to the extent permitted by law, including but not limited to the extent permitted in any of the following circumstances:

- (1) To the parties to the case and the appointing court;
- (2) Pursuant to an order or authorization of a court;
- (3) To other employees of the office in which the guardian ad litem is employed, if such communication is in furtherance of the guardian ad litem's assignment in the case;
- (4) To another guardian ad litem when delivering the guardian ad litem's file to another or successor guardian ad litem in the same or a related proceeding;
- (5) To counselors, therapists, medical doctors, educators, or other professionals who provide, provided or intend to provide services to the recipient of services; or
- (6) In those circumstances allowed pursuant to RSA 490-C:5-b, II, subject to such orders, prohibitions or limitations as may be issued by the board or its presiding officer under RSA 490-C:5-b, IV through VIII.

Gal 503.13 Duties to Persons Other than Recipients of Service and GAL Communications Regarding Cases.

(a) In dealing with a person or party who is not represented by counsel, a guardian ad litem shall disclose ~~their~~**his or her** role as a guardian ad litem.

(b) When a guardian ad litem believes that a person who is not represented by counsel misunderstands the guardian ad litem's role in the matter, the guardian ad litem shall make a good faith effort to correct the misunderstanding.

(c) The guardian ad litem may clarify and explain the limits of the guardian ad litem's role to any person.

(d) A guardian ad litem shall, to the extent required by law, maintain the confidentiality of communications that are confidential under federal law or the law of the state of New Hampshire or which are specified as confidential by the appointing court.

(e) A guardian ad litem shall not disclose any information regarding the case which may serve to identify the particular case unless:

(1) The disclosure is allowed pursuant to RSA 490-C:5-b, II, subject to such orders, prohibitions or limitations as may be issued by the board or its presiding officer under RSA 490-C:5-b, IV through VIII; or

(2) The disclosure is:

- a. Not otherwise prohibited by these rules, the orders or instructions of the appointing court or state or federal law; and
- b. Necessary to fulfill ~~his or her~~ ***their*** duties in the case.

Gal 503.14 Termination of Representation.

(a) Upon the termination of a guardian ad litem's appointment, the guardian ad litem shall take such steps as ~~he or she~~ ***they***, in good faith, believes ~~is are~~ necessary to protect the best interests of the recipient of services.

(b) The steps described in (a) above shall include, but not be limited to, the following:

- (1) Surrendering papers and property to which the recipient of services, the parties, or the court may be entitled;
- (2) Refunding and transferring any unearned fees; and
- (3) To the extent possible, taking action in a sufficiently timely manner as to allow time for appointment of another guardian ad litem.

Gal 503.15 Provision of Information to the Board and the Appointing Court.

(a) A guardian ad litem shall:

- (1) Submit truthful and accurate information in any initial, renewal, or reinstatement application, or any other writing submitted to the ***OPLC or*** board;
- (2) Make truthful and accurate statements in any oral communication to the board, ***OPLC***, and court;
- (3) Be forthright, candid, and not misleading in ~~their~~ ***his or her*** oral statements or written submissions to the board, ***OPLC***, and court; and
- (4) Submit truthful and accurate information in all reports, pleadings, or other writing submitted to the court.

(b) ***Pursuant to Plc 307.02, a*** guardian ad litem shall within ~~5~~ ***10 working*** days ~~inform~~ ***advise*** the ~~board~~ ***OPLC and court***, in writing, of the following information relating to the guardian ad litem:

- (1) Any disciplinary action, including the imposition of fines or penalties, taken or in the process of being taken against the guardian ad litem by any jurisdiction in which the guardian ad litem is authorized to practice in any profession;***
- (2) The commencement of any civil action or insurance claim filed against the guardian ad litem that alleges malpractice and any decision(s) made in such civil actions or insurance claims; and***

(3) Conviction without annulment in any jurisdiction of any felony that:

- a. Constitutes a sexual offense as defined in the convicting jurisdiction;***
- b. Constitutes a violation of controlled substance law; or***
- c. Is based on:***
 - 1. Injury or the potential for injury to a victim;***
 - 2. Any form of theft that would be covered in New Hampshire by RSA 637; or***
 - 3. Any form of crime involving dishonesty, including but not limited to fraud, blackmail, extortion, graft, hoax, misrepresentation, or forgery.***

~~(1) Conviction of, or a plea of guilty to any felony in any jurisdiction;~~

~~(2) Conviction of, or a plea of guilty to, any misdemeanor in any jurisdiction involving a child or incapacitated adult as a victim or, in the case of offenses involving attempt, conspiracy, or solicitation, as the intended victim;~~

~~(3) Conviction of, or a plea of guilty to:~~

~~a. Any misdemeanor involving domestic violence as defined in RSA 173-B:1, IX and as further specified in RSA 173-B:1, I so as to include either commission or attempted commission of an offense;~~

~~b. Solicitation or conspiracy to commit a misdemeanor involving domestic violence under (3) a. above; or~~

~~c. A misdemeanor committed contrary to the law of a jurisdiction other than the state of New Hampshire which would constitute domestic violence under a. above, or a solicitation or conspiracy to commit that offense, if committed in, or charged by, the state of New Hampshire;~~

~~(4) Conviction of, or a plea of guilty to, any misdemeanor arising under:~~

~~a. RSA 641:2, false swearing;~~

~~b. RSA 641:3, unsworn falsification;~~

~~c. RSA 641:4, false reports to law enforcement;~~

~~d. RSA 645:1, indecent exposure, and lewdness;~~

~~e. RSA 638:1, forgery;~~

~~f. RSA 633:3 a, stalking;~~

~~g. RSA 633:4, interference with custody;~~

~~h. RSA 644:4, harassment;~~

~~i. RSA 632 A:4, sexual assault;~~

~~j. RSA 631:2 a, simple assault;~~

- ~~k. RSA 631:3, reckless conduct;~~
- ~~-~~
- ~~l. RSA 633:3, false imprisonment;~~
- ~~-~~
- ~~m. RSA 634:1, arson;~~
- ~~-~~
- ~~n. RSA 634:2, criminal mischief;~~
- ~~-~~
- ~~o. RSA 635:1, burglary;~~
- ~~-~~
- ~~p. RSA 635:2, criminal trespass;~~
- ~~-~~
- ~~q. RSA 637, theft;~~
- ~~-~~
- ~~r. RSA 644:8, cruelty to animals;~~
- ~~-~~
- ~~s. RSA 631:2 b, domestic violence;~~
- ~~-~~
- ~~t. RSA 631:2, second degree assault;~~
- ~~-~~
- ~~u. RSA 644:9 a, nonconsensual dissemination of private sexual images;~~
- ~~-~~
- ~~v. RSA 633:7, trafficking in persons; or~~
- ~~-~~
- ~~w. The law of a jurisdiction other than the state of New Hampshire, if the misdemeanor would constitute any of the offenses listed in clauses (4) a. through q. above if committed in or charged under the jurisdiction of the state of New Hampshire;~~
- ~~-~~
- ~~(5) Conviction of, or a plea of guilty to, any misdemeanor involving an attempt, conspiracy or solicitation to commit those offenses listed in subparagraph (4) above;~~
- ~~-~~
- ~~(6) Conviction of, or a plea or guilty to, a misdemeanor of any type in any jurisdiction, which would bring the total number of the person's misdemeanors to more than 2, regardless of the jurisdiction or jurisdictions in which any of the misdemeanors arose;~~
- ~~-~~
- ~~(7) Current listing on the central registry of founded abuse and neglect reports or a report of child abuse or neglect against the person in this or any other jurisdiction;~~
- ~~-~~
- ~~(8) Suspension from any activity as a guardian ad litem in this or any other jurisdiction as the result of misconduct in the performance of his or her ***their*** duties as a guardian ad litem, or as the result of a failure to be of good character;~~
- ~~-~~
- ~~(9) Revocation of any certification, registration, approval, or appointment as a guardian ad litem as the result of misconduct in the performance of his or her ***their*** duties as a guardian ad litem, or as the result of a failure to be of good character, in this or any other jurisdiction;~~
- ~~-~~
- ~~(10) If presently or formerly authorized to practice as an attorney in this or any other jurisdiction, disbarment in any jurisdiction;~~
- ~~-~~
- ~~(11) Denial of an application for license, certification, registration or approval to practice as a guardian ad litem in this or any other jurisdiction and the reasons therefore; and~~
- ~~-~~
- ~~(12) Any change in the answer to the questions on the most recently submitted application form described at Gal 302.02(f)(8), (10), or (12), or Gal 401.07(d) regarding disbarment, revocation, suspension, reprimand, censure, discipline, disqualification, or sanction relative to the practice of a profession;~~

(c) A guardian ad litem shall within 5 days inform all courts in which ~~they are~~***he or she*** is currently appointed, in writing, copying all parties, of any sanction imposed upon ~~the guardian ad litem~~***him or her*** by the board.

~~— (d) A guardian ad litem shall within 5 days inform the board of any sanction imposed upon them in their~~***him or her in his or her capacity as a guardian ad litem by any appointing court.***

~~(de)~~ A guardian ad litem shall within 5 days inform all courts and parties in which ~~they are~~***he or she*** is currently appointed of information which the guardian ad litem is required to report to the board under paragraph (b) above.

~~(ef)~~ A guardian ad litem shall within 5 days inform all courts and parties in which ~~they are~~***he or she*** is currently appointed if their guardian ad litem certification has expired or been denied.

~~— (g) A guardian ad litem who is sanctioned by another board shall within 5 days:~~

~~(1) Notify the board, courts and all parties in which he or she is~~***they*** currently appointed; and

~~(2) Request a review with the board.~~

~~— (h) The guardian ad litem may still continue to practice pending the board review described in (g)(2) above.~~

~~— (i) The Board shall suspend or revoke certification following disclosure of any item under paragraph (b) in accordance with Gal 200.~~

~~— (j) The guardian ad litem whose certification has been suspended or revoked may request an oral hearing in writing with 30 days of the date of the letter, provided that the board shall, pursuant to Gal 203.04(d), commence an adjudicative hearing or issue an order of settlement within 10 days of delivering an order of emergency suspension.~~

Gal 503.16 Reporting of Certain Conduct of Another Guardian ad Litem. A guardian ad litem who possesses specific and credible information that ~~they~~***he or she***, in good faith, believes demonstrates that another guardian ad litem has caused emotional, physical, or psychological harm to a recipient of services shall inform the following entities of that belief:

(a) ***The OPLC division of enforcement by filing a complaint pursuant to the procedure provided in Plc 204.02***~~guardian ad litem board; and~~

(b) Either:

(1) If the case involving the harm is pending, the court that appointed the other guardian ad litem; or

(2) If the case involving the harm is not pending, the administrative judge designated under New Hampshire supreme court rule 54 for the court that appointed the other guardian ad litem in that case.

Gal 503.17 Cooperation in Investigations and Compliance with Board Procedures and Orders.

(a) A presently or formerly certified guardian ad litem shall cooperate in investigations of complaints conducted by the ***OPLC board***, ~~including by providing an executed answer form as required by Gal 203.02 (e)~~ ***(f) within 30 days of the date appearing on the board's written notification or such extended period allowed under Gal 203.02 (g).***

(b) A presently or formerly certified guardian ad litem shall abide by orders issued by the board or its presiding officers that are applicable to the guardian ad litem, including, but not limited to, orders issued pursuant to RSA 490-C:5-b, VI – VIII.

~~— (c) A presently or formerly certified guardian ad litem shall provide the board with information requested of him or her pursuant to Gal 404.01 (b) and (c).~~

PART Gal 504 OBLIGATIONS IN PARTICULAR KINDS OF CASES

Gal 504.01 Specific Duties in Abuse and Neglect Cases.

(a) The specific duties of a guardian ad litem in an abuse and neglect case set forth in this section shall be in addition to the other obligations and duties of a guardian ad litem set forth in these rules.

(b) A guardian ad litem in an abuse and neglect case shall independently assess any recommendation made by the department of health and human services, division for children, youth, and families.

(c) The guardian ad litem shall prepare a thorough and timely report with recommendations to the court when the court directs the guardian ad litem to file a report, including for, but not limited to, dispositional, review, permanency, and post-permanency hearings.

(d) If a guardian ad litem is aware that a recipient of services disagrees with a recommendation being made by the guardian ad litem, the guardian ad litem shall fully advise the appointing court of this fact.

Gal 504.02 Specific Duties in Criminal Cases.

(a) The specific duties of a guardian ad litem in a criminal case set forth in this section shall be in addition to the other obligations and duties of all guardians ad litem as set forth in these rules.

(b) In addition to the other obligations imposed by these rules or by the appointing court, a guardian ad litem in a criminal case shall become familiar with the history of the charges involved in the case, the role of the recipient of services, and the issues which bear upon the role of the recipient of services.

(c) When possible and consistent with the scope of the guardian ad litem's appointment, the guardian ad litem shall interview the recipient of services, and may interview such other persons, including counsel, as the guardian ad litem deems necessary.

Gal 504.03 Specific Duties in Domestic Relations Cases.

(a) The specific duties of a guardian ad litem in a domestic relations case set forth in this section shall be in addition to the other obligations and duties of all guardians ad litem as set forth in these rules.

(b) Unless otherwise provided by the appointing court, a guardian ad litem shall, on at least one occasion, meet in person with each party to the case.

(c) Unless otherwise instructed by the appointing court, a guardian ad litem shall inquire of each party as to the names of witnesses who each party believes are essential to the guardian ad litem's investigation of the case.

(d) A guardian ad litem in a domestic relations case shall be deemed to have fully discharged ***their*** ~~his or her~~ duties under this chapter relative to contacting witnesses or references appearing on any list if ~~he or she has~~ ***they have*** made a good faith attempt to contact 3 witnesses from the list supplied by each party, or, if a party specifies less than 3 witnesses or references, if the guardian ad litem has made a good faith attempt to contact all witnesses and references listed by that party.

(e) In a domestic relations case, a guardian ad litem may disclose information under Gal 503.12 (d) (1) or (2) or as is otherwise permitted by law, only after the guardian ad litem has informed the recipient of services of the guardian ad litem's intent to disclose. Such disclosure shall not be required in the circumstances specified in Gal 503.12(d)(3) though (6).

(f) In a domestic relations case in which the guardian ad litem is uncertain about whether to disclose potentially confidential information, the guardian ad litem shall seek court review before disclosing the information and shall, to the extent consistent with the best interests of the recipient of services, seek such protective orders as may be required to limit the disclosure.

(g) If a guardian ad litem is aware that a recipient of services disagrees with a recommendation being made by the guardian ad litem, the guardian ad litem shall advise the appointing court of this fact unless the guardian ad litem believes that to do so may result in harm to the recipient of services.

(h) In the case of a mature minor as described in RSA 461-A:11, I(e), if the recipient of services makes known to the guardian ad litem ~~his or her~~ ***their*** preferences relative to matters on which the guardian ad litem is offering a recommendation, the guardian ad litem shall advise the appointing court of those preferences.

Gal 504.04 Specific Duties in Cases Involving Termination of Parental Rights, Adoption and Guardianship.

(a) The specific duties set forth in this section relative to a guardian ad litem in a case involving termination, adoption, and guardianship shall be in addition to the other obligations and duties of all guardians ad litem as set forth in these rules.

(b) If the recipient of services makes known to the guardian ad litem ~~his or her~~ ***their*** preferences relative to matters on which the guardian ad litem is offering a recommendation, the guardian ad litem shall include a reference to those preferences in ~~their~~ ~~his or her~~ report.

(c) If a guardian ad litem is aware that a recipient of services disagrees with a recommendation being made by the guardian ad litem, the guardian ad litem shall advise the appointing court of this fact.

PART Gal 505 RECORDS AND ACCOUNTS

Gal 505.01 Records.

(a) The record retention requirements set forth in this section pertain to closed files, and shall be in addition to, and shall not limit, any record retention requirement which may be imposed upon the guardian ad litem by any other law or professional code to which the guardian ad litem may be subject.

(b) Unless otherwise ordered by the appointing court, a guardian ad litem shall retain all records, other than drafts or duplicates, regarding cases to which ***they were*** ~~he or she was~~ appointed:

(1) If a case is not appealed, for a minimum of 3 years after the expiration of the appeal period in the case;

(2) If a case is appealed and not remanded, a minimum period of 3 years after the expiration of the period for reconsideration of the decision of the appellate court finally deciding the case; and

(3) If a case is appealed and remanded and is not further appealed, for a minimum period of 3 years after the expiration of the appeal period in the case.

(c) Unless otherwise ordered by the appointing court, a guardian ad litem shall retain records relating to the handling, maintenance, and disposition of funds relating to cases to which ~~they are~~~~he or she is~~ appointed for a minimum period of 3 years after final distribution of such funds or any portion thereof.

(d) Unless otherwise allowed by law or ordered by the appointing court, a guardian ad litem shall maintain the confidentiality of records that are deemed confidential under federal or state law.

(e) Certified and formerly certified guardians ad litem shall retain in their possession the documentation specified in Gal 403.09 for a period of 3 years after claiming a particular activity for continuing education credit.

Gal 505.02 Accounts.

(a) The requirements regarding accounts set forth in this section shall be in addition to, and shall not limit, any requirements regarding accounts or the handling of funds which may be imposed upon the guardian ad litem by any other law or professional code to which ~~they~~~~he or she~~ may be subject.

(b) Unless otherwise ordered by the court, and except as provided in paragraph (c) below, a guardian ad litem appointed to any case in which funds of any type are received shall deposit such funds in a trust account with any bank or savings and loan association authorized to do business in the state of New Hampshire and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(c) The provisions of (b) above shall not apply to payments received by the guardian ad litem for services that have in the past been rendered and for which payment is due. A guardian ad litem holding funds in a trust account under this rule against future costs and fees may withdraw such funds as they become due.

(d) Funds in any account established under (b) above shall be subject to withdrawal upon demand.

(e) All cash property received by a guardian ad litem in which a person other than the guardian ad litem possesses an interest shall be promptly deposited in one or more accounts described in (b) above, separate from the guardian ad litem's own funds.

(f) Upon receiving cash property in which a person other than the guardian ad litem possesses an interest, the guardian ad litem shall:

(1) Maintain a separate ledger regarding deposits, withdrawals, and other dispositions to the account in which the cash property has been placed;

(2) Promptly record all transactions relative to the cash property; and

(3) Maintain records in accordance with Gal 505.01 above.

(g) Upon the conclusion of a case, a guardian ad litem shall return any unearned fees in ~~their~~~~his or her~~ possession to the person who paid them to the guardian ad litem, or in such other manner as that person or the written fee agreement may direct.

Text added to existing rule shown in ***bold italic***
Text removed from existing rule shown in ~~strike through~~

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APPENDIX

RULE	STATUTE
Gal 501.01	RSA 490-C: 4, I(e); RSA 490-C:5, I(e)
Gal 501.02	RSA 490-C: 4, I(e)
Gal 502.01 – Gal 502.10	RSA 490-C:4, I(e); RSA 490-C:5, I(e); RSA 541-A:16, I
Gal 503.01	RSA 310:10, VII
Gal 503.02	RSA 490-C:4, I(e); RSA 461-A:16; RSA 169-C:29; RSA 161-F:46
Gal 503.03 – Gal 503.06	RSA 490-C:4, I(e)
Gal 503.07 – Gal 503.12	RSA 490-C:4, I(e)
Gal 503.13 – Gal 503.14	RSA 490-C:4, I(e); RSA 490-C:5-b
Gal 503.15	RSA 490-C:4, I(e)
Gal 503.16	RSA 490-C:4, I(e)
Gal 503.17	RSA 490-C:4, I(e); RSA 490-C:5-b
Gal 504.01	RSA 490-C:4, I(e); RSA 490-C:5
Gal 504.02	RSA 490-C:4, I(e)
Gal 504.03	RSA 490-C:4, I(e); RSA 461-A:5, II
Gal 504.04	RSA 490-C:4, I(e); RSA 170-B:5; RSA 170-C:8; RSA 463:8
Gal 505.01 – Gal 505.02	RSA 490-C:4, I(e)