

# NACC

## National Association of Counsel for Children

Evaluation of the Guardian Ad Litem System in Nebraska

Conducted by the National Association of Counsel for Children

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# The Charge by Nebraska's Legislature

- In 2008, the Nebraska Legislature called for a study of Nebraska's guardian ad litem system.
- The Nebraska Legislature expressly stated that the assessment “shall highlight promising approaches and innovative practices within the state and offer recommendations to improve weak areas.”

# Evaluation of the GAL System

1. How well do the current structure and funding mechanisms for guardian ad litem representation operate?
  - How do these mechanisms compare to national standards and best practices?
  - If necessary, how could these structures and funding mechanisms be improved?
2. How do caseloads for guardian ad litem compare to national standards and best practices for caseload sizes?
  - What are promising approaches and innovative practices?
  - If necessary, what strategies should be used to improve caseload sizes?
3. How does the timing of appointment of guardian ad litem compare to states similar to Nebraska and national standards and best practices for timing of appointment?
  - What are promising approaches and innovative practices?
  - If necessary, what strategies should be implemented to improve the timing of appointment?

# Evaluation of the GAL System (cont'd)

4. What are the practices of guardian ad litem supervision in Nebraska?
  - How do these supervision practices compare to national standards and best practices?
  - If necessary, what improvements should be made with respect to supervision of guardian ad litem?
5. How are resources allocated for the guardian ad litem in Nebraska?
  - How does the allocation of resources compare to national standards and best practices?
  - What are promising approaches and innovative practices?
  - What improvements could be made in the allocation of resources for guardian ad litem in Nebraska?

# Evaluation of the GAL System (cont'd)

6. To what extent are juvenile court facilities appropriate and adequate for abuse and neglect cases?
  - How do facilities compare to national standards and best practices?
  - What are promising approaches and innovative practices?
  - If necessary, what improvements should be made in facilities for abuse and neglect cases?
7. What is the compensation for Nebraska guardian ad litem?
  - How does compensation vary across jurisdictions?
  - How does compensation compare to national standards and best practices?
  - If necessary, what improvements should be made in compensation for guardian ad litem?
8. How are guardian ad litem trained?
  - How does this training *vary* across jurisdictions and compare to national standards and best practices?
  - If necessary, how could the process for training be improved?

# Evaluation of the GAL System (cont'd)

9. What are the processes in place to provide guardian ad litem access to investigators, experts, social workers, and support staff?
  - How do these processes compare to national standards and best practices?
  - If necessary, how should these processes be improved?
10. What are the processes in place to provide guardian ad litem access to educational officers, teachers, educational staff, and truancy officers?
  - How do these processes compare to national standards and best practices?
  - What are promising approaches and innovative practices?
  - If necessary, how should these processes be improved?

# Evaluation of the GAL System (cont'd)

11. What is the nature of the relationship between guardian ad litem, juvenile legal counsel, and the judicial system with identified educational staff regarding a juvenile's educational status and truancy?
  - How does this relationship vary across jurisdictions and compare to national standards and best practices?
  - What are promising approaches and innovative practices?
  - If necessary, what procedures should be implemented to improve this relationship to ensure school performance and reduce truancy?
12. What is the time to permanency and time in court, especially when a guardian ad litem is appointed?
  - How does the time to permanency and time in court compare to national standards and best practices?
  - What are promising approaches and innovative practices?
  - If necessary, what processes should be implemented to reduce this time?

# Evaluation of the GAL System (cont'd)

13. What are the current procedures for coordination of representation for those juveniles that may have been appointed an attorney in a juvenile delinquency matter and a guardian ad litem because of abuse or neglect?
  - How do these procedures compare to national standards and best practices?
  - If necessary, what processes should be implemented to improve these procedures?
14. What is the nature of the relationship between the juvenile and guardian ad litem?
  - How often do they meet?
  - Does the same guardian ad litem represent the juvenile throughout the process?
  - Are the juvenile and guardian ad litem together in court?
  - How do youth perceive their relationship with their guardian ad litem?
  - How do these practices compare to national standards and best practices?
  - If necessary, what processes should be implemented to improve these practices?

# Evaluation of the GAL System (cont'd)

15. To what extent do children/youth participate in court proceedings?
- Under what circumstances are they present?
  - How do they participate in hearings during their time in court?
  - How do these practices compare to national standards and best practices?
  - If necessary, what processes should be implemented to improve these practices?

# Summary

## ■ Strengths

- Children have a statutory right to a GAL in dependency matters.
- A GAL is appointed in every case.
- All GALs are licensed attorneys.
- The appointment happens very soon after the case is filed.
- The GAL is present for almost all court appearances.

# Summary (cont'd)

## ■ Problems

- GALs are not visiting their clients.
- They are not zealously advocating for appropriate permanency for their clients.
- They are not making their clients' position known to the court.
- They are not using independent experts to assist them in understanding their clients and in presenting alternative service plans to the court.
- They are not actively investigating their clients' education needs.
- They are not receiving sufficient training or supervision.
- "They just sit there."

# Summary (cont'd)

## ■ Short Term Reforms

- Because attorneys for children should have clearly defined case responsibilities, Nebraska should clearly enumerate the powers and duties of the GAL in 3(a) cases through statute or mandatory, enforceable practice standards promulgated by the Supreme Court.
- Training for GALs in Nebraska must be significantly increased and enhanced, and there must be organized opportunities for GALs to network with and learn from each other.
- The relationship between the GAL and the child must be changed to become client-focused, not adult-focused.
- Nebraska should establish mandatory caseload standards for GALs in 3(a) cases.
- All GALs should be reimbursed on an hourly basis. All counties that still use the law firm/flat-fee contract system should phase this system out, given the evidence that attorneys working on an hourly basis have more reasonable caseloads and adequate compensation.
- Youth should participate in 3(a) proceedings in court.

# Summary (cont'd)

## ■ Long Term Reforms

- Nebraska should establish a centralized system for oversight of GAL services. Responsibility for administering and funding the system of legal services to children in 3(a) cases should be shifted to an independent state entity, whether within the state Administrative Office of the Courts or the executive branch.
- Nebraska should adopt, by statute, a client-directed model of representation. Building on the GAL-child relationship changing to a client-focused rather than adult-focused relationship, the child's attorney should follow the Nebraska Rules of Professional Conduct just like all attorneys.
- Nebraska should renovate court facilities to make them adequate for the needs of children and youth.