

IN THE CHILD’S BEST INTERESTS: Preparing Culturally Responsive Guardians ad Litem in Minnesota

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EXECUTIVE SUMMARY

Guardians ad litem (GALs) serve and advocate for the most vulnerable children in Minnesota. These individuals make recommendations to the courts which can impact the amount of time children are placed out of their homes.^{10,11} The Guardian ad Litem Board sets the qualifications and training requirements for Guardians ad Litem in Minnesota.^{8,9} **Guardians ad litem are currently required to participate in 3 hours per year of continuing education in cultural awareness topics;** this amount of training is not adequate in relation to the diversity of the population with which the GALs are working.^{8,9} **The importance of cultural responsiveness is significant for GALs when 59.2% of children who experienced out-of-home care in 2016 identified one of their races as African American, and 56.0% of children identified at least one of their races as American Indian.**⁴ It is important that Guardians ad Litem have increased understanding and recognition of diversity and culture **to become better advocates for the children they serve, and to keep children of color from being disproportionately placed outside of their homes and families.**

WHAT IS A GUARDIAN AD LITEM?

- Guardians ad Litem were created through **The Child Abuse Prevention and Treatment Act in 1974- which required states to appoint GALs for children in child welfare cases.**^{3,8,9}
- Guardians ad Litem are appointed by the court in adoption, custody, visitation, child support, and paternity cases.^{3,7,11} These cases **typically involve high parental conflict, allegations of abuse, or evidence of parental mental health or substance abuse concerns: all of which cause distress on the children involved.**^{3,7,11}
- **A GAL may review documentation, interview parents, caregivers, and other collateral contacts, and meet with and observe the child in their home setting.**¹⁰
- The overarching responsibility of the GAL is to advocate for the **child’s best interests**, which necessitates a comprehensive understanding of the child’s culture.
- Appointing a GAL to cases that involve alleged child abuse and neglect is mandatory.³

GUARDIAN AD LITEM REQUIREMENTS⁸

- Minimum educational qualifications: **BA or BS degree** in a child-related discipline- law, nursing, education, social work, psychology, etc.^{8,9}
- Pass a federal **background check**.^{8,9}
- **Mandatory training programs** with certificate of completion in: juvenile protection, Indian Child Welfare Act, domestic violence, and family court; *however, these requirements can be delayed by the state and district programs if adequate funding is not available.*^{8,9,11}
- **Employee GALs complete 15 hours each year** of continuing education requirements; **Volunteer GALs complete 12 hours each year.**^{8,9}
- All GALs in Minnesota are only required to complete **3 hours per year** of diversity training even though children of color are disproportionately represented in the child welfare system.^{8,9}

GAL PROGRAM IN MINNESOTA

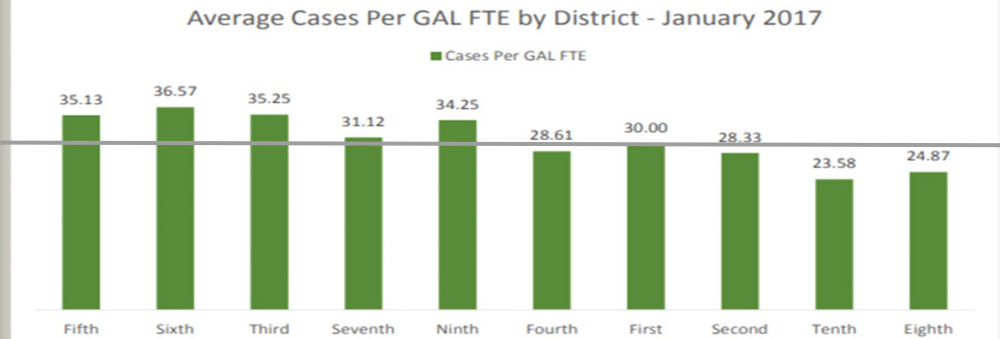
Each of the 10 judicial districts in Minnesota have their own GAL program.⁷ **Minnesota has seen a 59% increase in its child protection filings between the fiscal years of 2011-2016.**¹¹ In an examination of national foster care populations between 2011-2015, **Minnesota ranked #4 in the growth of its foster care population**, with a 4-year increase of 51.7%, only lower than the states of Arizona, Montana and Indiana.¹¹ These increases result in higher demand for GAL appointments. GALs are primarily full-time and part-time state employees, with the exception of the 2nd and 4th judicial districts (Ramsey and Hennepin County), as they both rely heavily on the use of volunteer GALs.¹¹ Half of the ten districts operate at higher caseload levels than recommended, which is 30 or less per full-time GAL.¹¹

2016 Minnesota GAL Program :

17,421 children served by the program⁷
252 employee GALs and 365 volunteer GALs⁷

National Center for State Courts, 2017—Average Cases Per Full-time GAL¹¹

Figure 3. Average Cases Per GAL FTE by District



Recommended caseload for full-time, employee GAL: 30 or less¹¹

CULTURAL DISPARITIES IN THE CHILD WELFARE SYSTEM IN MINNESOTA

The Governor’s Task Force on the Protection of Children identified **disproportionate over-representation of children by race and ethnicity as a concern** among the Minnesota child protection system.⁵ When compared to white children:

- **American Indian children are 17.6 times more likely to experience care.**⁴
- **African American children are over 3.1 times more likely to experience care.**⁴
- **Children identified with 2 or more races were 4.8 times more likely to experience care.**⁴

CRITIQUE OF CURRENT POLICY

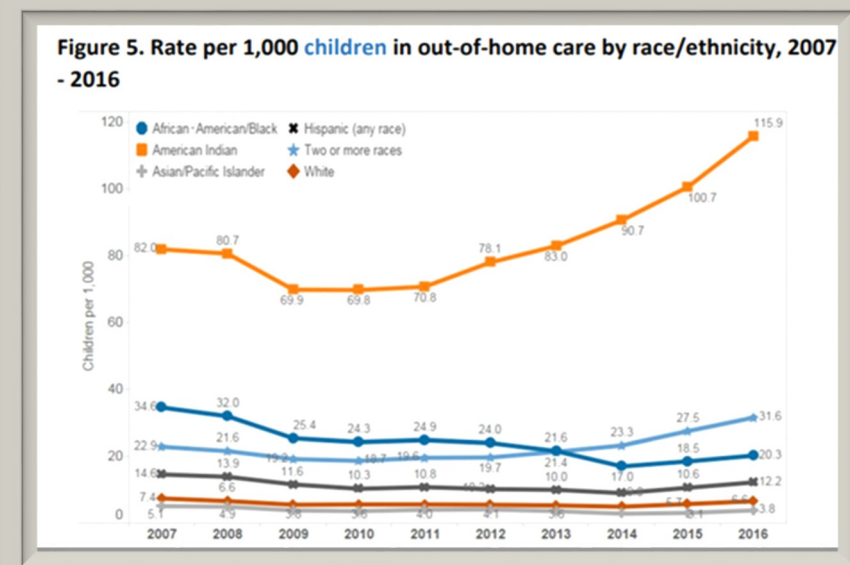
Children of minority status are disadvantaged in many ways within the child welfare system.¹² Appointing a GAL is intended to allow the child to have access to someone with their **best interests** in mind throughout their involvement with the court system. Unfortunately, minority children are often appointed a GAL who may not fully understand their best cultural interests.

Guardians ad litem have insufficient training to be impartial to deep-rooted notions and beliefs about class and race. The minimal training leaves GALs to determine what is in the best interests of the child based only on their own beliefs, values, and what they determine is correct in our society.

A rule of cultural relativism, or seeing one’s culture through the lens of that culture, should be the standard for working with all children in the child welfare system.

Cultural relativism and more cultural awareness can be gained through more required trainings for GALs on cultural responsiveness.^{2,13}

MINNESOTA’S OUT-OF-HOME CARE AND PERMANENCY REPORT, 2016⁴



IMPORTANCE OF CULTURAL DIVERSITY TRAINING IN THE CHILD WELFARE SYSTEM

The importance of cultural knowledge and sensitivity is crucial when making permanency decisions that **impact the stability of at-risk children** in the child welfare system.^{1,13} Child welfare cases present unique issues that require an ability to **understand the cultural complexities of family life.**^{1,13}

The best interests of the child are not represented when the GAL is not culturally responsive.

More mandated diversity training, would help support the following outcomes of the GAL program:

- **Prevent unnecessary or inappropriate out-of-home placements**
- **Better reunification rates for families**
- **Understand the impact of other permanency options, other than reunification, on a child and their family.**¹

Child welfare cases necessitate an examination of a child's culture.¹³ **Concrete legislative changes are required** to address the issues associated with failure of acknowledging culture in child welfare proceedings, and to develop more culturally conscious professionals.¹³

RECOMMENDATIONS

- Encourage GALs to **EMBRACE DIVERSITY AND DIFFERENCE** in practice.
- **INCREASE MANDATED TRAINING** on cultural responsiveness for GALs.
- Ensure that **CHILDREN'S BEST INTERESTS ARE UNDERSTOOD** and communication is clear throughout the court process.
- **DECREASE OVERREPRESENTATION** of minority children and families in Minnesota's child welfare system.
- **MANAGE GAL CASELOADS** across the state, so they meet program recommendations of 30 cases or less per full-time GAL.¹¹
- **INCREASE** the number of **EMPLOYEE GALs** in the 2nd and 4th districts, and decrease dependence upon volunteer GALs.¹¹
- Recruit a **GAL WORKFORCE** that is **MORE REPRESENTATIVE** of the **DIVERSITY** in Minnesota.
- **INCREASE FUNDING**, through the state legislature, for Minnesota's GAL program.

GET INVOLVED: WHAT CAN YOU DO?

ASK the Guardian ad Litem board to mandate increased diversity training for GALs.

CALL, email or write a letter to your local legislator, and ask for increased funding for the GAL program to help create a more culturally responsive GAL workforce in Minnesota.

REVIEW the results of the Office of the Legislative Auditor's 2017 evaluation report on the GAL program, due to come out March 2018.

SUPPORT efforts that advocate for the best interests of children in Minnesota, such as: decreasing overrepresentation of minority children and families and recruiting a more diverse GAL workforce.

VOTE: because your voice matters.

SOURCES

1. Anderson, G. R., Ryan, A. S., & Leashore, B. R. (1997). *The challenge of permanency planning in a multicultural society*. New York: Haworth Press.
2. Federle, K. H., & Gadomski, D. (2011). The curious case of the guardian ad litem. *The University of Dayton Law Review*, 36(3), 337-352.
3. Mabry, C. R. (2013). Guardians ad litem: Should the child's best interests advocate give more credence to the child's best wishes in custody cases? *American Journal of Family Law*, 27(3), 172-188.
4. Minnesota Department of Human Services. Minnesota's Out-of-Home and Permanency Report, 2016 (2017). Retrieved from https://mn.gov/dhs/assets/2017-10-out-of-home-care-and-permanency-report_tcm1053-321462.pdf
5. Minnesota Department of Human Services, Governor's Task Force on the Protection of Children. (2015). Final Report and Recommendations. Retrieved from https://mn.gov/governor/assets/EO_14_15.pdf_tcm1055-92719.pdf
6. Minnesota Department of Human Services, Minnesota's Child Welfare Report 2013: Report to the 2014 Minnesota Legislature (2014). Retrieved from <https://docs.dhs.state.mn.us/lfs/Server/Public/DHS-5408F-ENG>
7. Minnesota Guardian ad Litem Board (Ed.). (2017). Program information. Retrieved January 27, 2018, from <https://mn.gov/guardian-ad-litem/>
8. Minnesota Guardian ad litem- Guardian ad Litem Program Requirements and Guidelines (Non-statutory) (formerly Guardian Ad Litem System Program Standards" (2015). *State Guardian ad Litem Board*, Policy number 4, State of Minnesota.
9. Minnesota Guardian ad litem- Guardian ad Litem Program Requirements and Guidelines (Non-statutory) (formerly Guardian Ad Litem System Program Standards" (2011). *State Guardian ad Litem Board*, Policy number 4, State of Minnesota.
10. Minnesota Guardian ad litem- Related rules and Procedures (2007). *Guardians ad litem*. Saint Paul, MN: Program Evaluation Division, Office of the Legislative Auditor, State of Minnesota.
11. National Center for State Courts. (2017). Assessment of the organizational structure and service delivery model of the Minnesota guardian ad litem program. Retrieved from https://mn.gov/guardian-ad-litem/assets/2017%20NCSC%20FINAL%20REPORT_tcm27-299253.pdf
12. University of Minnesota, Center for Advanced Studies in Child Welfare. Child Well-Being in Minnesota: Legislative Responses to Reduce Racial and Ethnic Disparities in Child Welfare. Retrieved from https://casw.umn.edu/wp-content/uploads/2013/11/policyreport3_web-versionFINAL.pdf
13. Weyer, E. (2014). Respecting uncustomary family traditions: Reforming the role of guardians ad litem. *The Journal of Gender, Race, and Justice*, 17(1), 197-220.