

IN THE SUPREME COURT FOR THE SAC AND FOX NATION
356159 EAST 926 ROAD, STROUD, OKLAHOMA 74079

FILED
IN THE SUPREME COURT
2019 DEC -5 A 10: 33

IN THE MATTER OF)
)
GUARDIAN AD LITEM RULES) **ADM-19-04**
)

SAC AND FOX NATION
CHARLOTTE SMITH
COURT CLERK
BY _____ DEPUTY

NOW, on this 5th day of December 2019, the Supreme Court for the Sac and Fox Nation finds it necessary for the orderly administration of the Sac and Fox Judicial System to adopt Guardian Ad Litem Rules. Pursuant to the Sac and Fox Code of Laws, Title 9, Section 207(a) the Supreme Court is responsible for creating and maintaining rules of the Court, not contrary to the Tribal Constitution or Code, regulating conduct in the Supreme and District Courts to provide for the orderly and efficient administration of justice and the administration of the Courts.

IT IS HEREBY ORDERD, to wit:

That the attached Guardian Ad Litem Rules for the Sac and Fox Nation are hereby adopted as Rule 2019.10.1 effective immediately.

IT IS SO ORDERED.



O. JOSEPH WILLIAMS
CHIEF JUSTICE

SUPREME COURT OF THE SAC AND FOX NATION

Rule 2019.10.1

"Rules of the Sac and Fox Nation Guardian Ad Litem"

PART I. PURPOSE AND DEFINITIONS

Rule 1. Purpose

The purpose of these rules is to establish a minimum set of standards applicable to all court cases when the Court appoints a Guardian Ad Litem or any person to represent the best interest of a child, an incapacitated person, or an adjudicated incapacitated person pursuant to tribal law.

Rule 2. Definition

Unless otherwise defined by ordinance or other law, a Guardian Ad Litem shall mean any attorney, person or program appointed pursuant to tribal law in an action to represent the best interests of a child, an alleged incapacitated person, or an adjudicated incapacitated person.

PART II. GENERAL RESPONSIBILITIES

Rule 3. General Responsibilities of a Guardian ad Litem

Consistent with the responsibilities set forth by tribal law and rules of court, in every case in which a Guardian Ad Litem is appointed, the Guardian Ad Litem shall perform the responsibilities set forth below.

A. Represent Best Interests

A Guardian Ad Litem shall represent the best interests of the person for whom he or she is appointed. A Guardian Ad Litem shall objectively advocate on behalf of the person he or she is appointed to represent and act as an officer of the court to investigate all matters concerning the best interests of said person. Representation of the best interests may be inconsistent with the wishes of the person whose interests the Guardian Ad Litem represents. The Guardian Ad Litem shall not advocate on behalf of or advise any party so as to create in the mind of a reasonable person the appearance of representing that party as an attorney.

B. Maintain Independence

A Guardian Ad Litem shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.

C. Professional Conduct

A Guardian Ad Litem shall maintain the ethical principles established by the Court.

D. Avoid Conflicts of Interest

A Guardian Ad Litem shall avoid any actual or apparent conflict of interest or impropriety in the performance of the Guardian Ad Litem's responsibilities. A Guardian Ad Litem shall avoid self-dealing or association from which a Guardian Ad Litem might directly or indirectly benefit, other than for compensation as Guardian Ad Litem. A Guardian Ad Litem shall take action immediately to resolve any potential conflict or impropriety. A Guardian Ad Litem shall advise the Court and the parties of action taken, resign from the matter, or seek court direction as may be necessary to resolve the conflict or impropriety. A Guardian Ad Litem shall not accept or maintain appointment if the performance of the duties of Guardian Ad Litem may be materially limited by the Guardian Ad Litem's responsibilities to another client or a third person, or by the Guardian Ad Litem's own interests.

E. Treat Parties with Respect

A Guardian Ad Litem is an officer of the court and as such shall at all times treat the parties with respect, courtesy, fairness and good faith.

F. Become Informed About Case

A Guardian Ad Litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. A Guardian Ad Litem shall examine material, information and sources of information, taking into account the positions of the parties. A Guardian Ad Litem shall review documents, reports, records and other information relevant to the case; meet with and observe the person he or she is appointed to represent in appropriate settings; and interview parents, caregivers, health care providers, and any other persons with knowledge relevant to the case including, but not limited to, teachers, counselors and child care providers.

G. Personal Contact

A Guardian Ad Litem shall, monitor the best interests of the person he or she is appointed to represent throughout any judicial proceeding, and whenever practical, personally visit the place of residence of the person for whom he or she is appointed.

H. Timely Inform the Court of Relevant Information

A Guardian Ad Litem shall file a written report with the Court and the parties as required by law or by the court order, no later than 24 hours prior to a hearing for which a report is required. The report shall contain a list of documents considered or called to the attention of the Guardian Ad Litem and persons interviewed during the course of the investigation.

I. Limit Duties to Those Ordered by Court

A Guardian Ad Litem shall comply with the Court's instructions as set out in the Order Appointing Guardian Ad Litem, and shall not provide or require services beyond the scope of the Court's instruction unless by motion, and on adequate notice to the parties, a Guardian Ad Litem obtains additional instructions, clarification or expansion of the scope of such appointment.

J. Appear at Hearings

The Guardian Ad Litem shall be given notice of all hearings and proceedings. The Guardian Ad Litem shall appear at all hearings and participate, unless excused by the Court, to advocate for the best interests and appropriate services of the person he or she is appointed to represent.

K. Maintain Privacy of Parties

As an officer of the court, a Guardian Ad Litem shall make no disclosures about the case or the investigation except in reports to the Court or as necessary to perform the duties of a Guardian Ad Litem. A Guardian Ad Litem shall maintain confidential the personal identifiers or addresses when there are allegations of domestic violence or risk to a party or child's safety. The Guardian Ad Litem may recommend that the Court seal the report or a portion of the report of the Guardian Ad Litem to preserve the privacy, confidentiality, or safety of the parties or the person for whom the Guardian Ad Litem was appointed.

PART III. QUALIFICATIONS AND CULTURAL COMPETENCY

Rule 4. Qualifications

The Court shall establish qualifications for a Guardian Ad Litem.

A. Credentials

- I. A current valid license to practice law in the state of Oklahoma and a member of the Sac and Fox Nation Bar Association; or
- II. A Certification of Qualification by the Director of the local CASA program; or
- III. Waiver of the licensure or qualification requirement by the Chief District Judge.

B. Standard Operating Manual for Guardian Ad Litem

All Guardians Ad Litem shall certify to the court that the Oklahoma Administrative Director of the Courts Standard Operating Manual for Guardians Ad Litem has been read and all provisions contained therein are understood. All Guardians Ad Litem shall also certify that they agree to follow the best practices described within the standard operating manual.

Rule 5. Cultural Competency

The Guardian Ad Litem shall establish and maintain a cultural competency of the tribal community as required by the Court. A cultural awareness class may be arranged through the Clerk's Office when necessary.

PART IV. COMPENSATION

Rule 6. Compensation

Expenses, costs, and attorney fees for the Guardian Ad Litem may be allocated among the parties as determined by the court. Should the court bear responsibility of the expense, the compensation for Guardian Ad Litem duties including expenses, costs, and fees shall not exceed One Thousand Dollars (\$1,000.00) per case appointment. Upon written application, the Court may consider increasing the compensation amount if the circumstances of the case are extensive and if the court budget so allows.

PART V. DISCIPLINARY ACTIONS

Rule 7. Disciplinary Actions.

Failure to comply with these rules may result in removal from a case or cases, suspension from serving as Guardian Ad Litem in future cases, and/or disciplinary actions under the Bar Association Rules, among any other disciplinary measures or penalties authorized by law.

A request for disciplinary measures may be made by any person with knowledge of a violation by filing a grievance or motion with the court or by a judge *sua sponte*. Disciplinary measures may be issued by the court presiding over the matter in which the violation arose or pursuant to the grievance process set forth in the Bar Association Rules.