

Chapter 14 - Guardian ad litem

Rule 14.01 - General

Through this Rule, the Medina County Domestic Relations Court incorporates by reference Rule 48 of the Rules of Superintendence for the Courts of Ohio.

Rule 14.02 - Appointment.

- (A) The Court will maintain a list of qualified Guardians ad litem (“GAL”) who have been approved upon application to serve as GAL in domestic cases. The Court, in its discretion, may also solicit applications to serve as GAL, from qualified attorneys.
- (B) In selecting counsel, the Court may consider the experience and expertise of the GAL and GAL’s management of his/her current caseload.
- (C) The Court will keep a record of all GAL appointments made in a given calendar year and shall review the record periodically to ensure that appointments are equitably distributed among GALs on the appointment list.
- (D) When requested by either party or ordered by the Court, a GAL may be appointed. The request for a GAL shall be made no later than the pretrial for an original action and the status conference for post-decree matters, absent good cause shown. The Court may deny a request for a GAL if the request is not timely made or appears to have been requested for purposes of delay.

Rule 14.03 - Role

- (A) The role of the GAL is to assist the Court in allocating parenting time, with the primary focus being the best interest of the child(ren). GALs will provide a comprehensive assessment of the parenting issues related to the allocation of parental rights and responsibilities.
- (B) It is expected that the guardian ad litem will attend all court hearings, have a report available, and testify if requested.

Rule 14.04 - Report of GAL

- (A) Upon completion of the guardian ad litem report, the guardian ad litem shall provide a copy to the attorneys of record, or if the party is not represented, a copy shall be given to the party.
- (B) Guardian ad litem reports and recommendations contain adult information which is not to be shared with the minor child(ren). Attorneys are expected to use professional discretion in sharing information with their clients.
- (C) The written report of the guardian ad litem shall be considered as part of “the original papers and exhibits filed with the trial court” for purposes of App.R. 9(A).

Rule 14.05 - Compensation

- (A) Approved Fee Rate: Guardians ad litem (“GAL”) shall be paid at the rate of \$150.00 per hour for all reasonable and necessary time expended and expenses incurred, unless otherwise agreed upon, in writing, by all parties, counsel and GAL, and approved by order of court.
- (B) Deposits: When making the appointment, the court will order a \$1,500.00 or greater deposit toward the GAL’s fees and expenses, to be paid by one or both of the parties. After considering the parties’ ability to pay, the court may issue an order waiving or modifying this requirement if the parties are unable to pay a deposit.
- (C) Payment:
1. The GAL may move for release of funds on deposit during the pendency of the case by motion. The GAL shall submit motion for payment at the conclusion of the case. Motions for release of funds for payment of GAL fees must itemize the duties performed, time expended, and expenses incurred.
 2. The court will issue an order on the motion for release of funds to pay the fees of the GAL, unless a hearing on the motion is requested within fourteen (14) days. Failure to request a hearing is deemed consent to release of the funds on deposit to pay the GAL fees. Unless ordered otherwise, the release shall be taxed to each party in the same proportion as the order for deposit.
 3. In determining the allocation of GAL fees, the court will consider any relevant factor, including: (i) The rate or amount of compensation of the guardian ad litem; (ii) The sources of compensation of the guardian ad litem, including the parties or pro bono contribution of services by the guardian ad litem; (iii) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated using an affidavit, testimony to the court, or evidence of qualification for any means-tested public assistance; (iv) The conduct of any party resulting in the increase of the guardian ad litem fees and expenses without just cause; (v) The terms and amount of any installment payments.
 4. The court may approve or deny any portion of the requested fees.
 5. Approved fees and expenses payable to a GAL shall be deemed to be in the nature of support and within the exceptions to discharge in bankruptcy under 11 U.S.C. 523.
- (D) **Record-keeping.** The guardian ad litem must do both of the following:
1. Keep accurate records of the time spent, services rendered, and expenses incurred while performing the responsibilities of a guardian ad litem;
 2. Provide a monthly itemized statement of fees and expenses to all parties.
- (E) Enforcement
1. The court may enforce payment of guardian ad litem fees and expenses as follows:
 - a. issue a lump sum judgment;
 - b. conduct contempt of court proceedings;
 - c. utilize any other manner authorized by law.
 2. The court will not delay or dismiss a proceeding solely because of a party’s failure to pay GAL fees and expenses. The inability of a party to pay GAL fees and expenses ordered by the court will not delay any final entry.