

Working with GALs and Parenting Evaluators: Tips for Parents in Family Law Cases

Introduction

If you are involved in a divorce, parentage (paternity) or nonparental custody case where the other parent disagrees with you, the court may appoint a Guardian ad Litem (GAL) or Parenting Evaluator.

◆ **GALs and Parentage Cases:** Starting July 27, 2011, state law says you must have a GAL appointed in any parentage case where the children are over age two.

A GAL may be an attorney, social worker, or psychologist, or community volunteer (Court Appointed Special Advocate or CASA). In some cases, the court may appoint a parenting evaluator instead of a GAL.

Whether a GAL or an evaluator is appointed will depend on the financial resources of the parents, the lower-fee or free GAL/evaluation resources in your county, and sometimes the specific issues in your case.

Examples: In some counties, a Family Court Services social worker may be appointed to your case as a parenting evaluator. Or the evaluator may be a psychologist or psychiatrist in private practice.

GALs and private parenting evaluators generally charge per-hour for their time. The court may order one or both parties to pay those fees. If both parents are low-

income, the court can order the county to pay for the GAL.

A **CASA GAL** is a volunteer. The CASA program doesn't charge parties for that GAL's time.

Family Court Services charges a sliding-scale fee to both parents, depending on each parent's individual income.

Regardless of how or whether the GAL or evaluator is paid, a GAL's job is to represent or investigate your children's interests in the court case. A GAL is appointed to represent your child's best interests, and to advocate for those best interests to the court. The GAL should be served with all legal papers and hearing notices, and generally must appear at those hearings.

◆ The GAL doesn't represent you or the other parent.

A parenting evaluator does an investigation of each parent and the children to find out what's in the children's best interests and makes a recommendation to the court, but is less involved in the case. An evaluator doesn't actually represent your child's interests.

Despite their differences, both a GAL and a Parenting Evaluator will make recommendations to the court about:

- which parent should have custody;
- how much visitation the other parent should have; and
- whether either parent should be ordered to do other things (such as

drug treatment) in order to be able to spend time with the children.

This publication is for people who already have a GAL or parenting evaluator assigned to their cases. If you'd like to know more about GALs and evaluators, including more about the differences between their roles, the rules that govern them, and how to get a GAL or an evaluator appointed to your case, please see the "[How to Request a GAL for Dissolution Cases](#)" publication found on the Washington LawHelp web site: www.washingtonlawhelp.org.

The GAL/Evaluator's investigation and report are very important. What they recommend is often what the court will do.

You may feel that the investigation is intrusive. You may feel that it is unfair for someone to evaluate your parenting skills at a time when your family is going through the trauma of separation (or domestic violence). You may feel that the GAL/evaluator doesn't understand what it's like to have limited financial resources. The person on your case will not have time to really get to know your family, but must draw conclusions based on his/her own impression and the opinions of others.

However, especially if you are representing yourself and/or cannot afford to hire experts to present evidence in your case, the GAL or parenting evaluator's report can be an opportunity to have information that you believe important considered seriously by the court. **Participating in the evaluation is very important.**

Every GAL and Evaluator is different. This publication suggests some general things you can do to increase the chance of getting a good evaluation. It may be hard or impossible for you to follow all of these suggestions, but being aware of these expectations can help you get ready for this experience. In the following section, the

title "GAL" and "evaluator" refer to whoever has been appointed to your case to investigate the parenting situation.

◆ **Mandated Reporters:**
GALs are "mandated reporters." State law requires GALs to report a family to law enforcement or to CPS when the GAL has a reason to believe that a child in a family the GAL is investigating has been abused or neglected.

How can I make a "good impression?"

- **Try to be on time. Be quick to respond.** Keep your appointments. Be on time. If you must cancel, call the evaluator/GAL as soon as possible to let him/her know. Explain why you have to reschedule. Return calls and paperwork promptly.
- **Put on a calm front, even if you are nervous inside.** In the interview and during every phone call with the evaluator, try to be polite and calm. You may ask questions and disagree politely with your evaluator if necessary, but try not to lose your temper, even if you think the evaluator is rude to you. The GAL will not have much time to get to know you. So s/he may form an opinion of you based upon the times s/he speaks with you.
- **Do not "attack" or badmouth the other parent or others.** You should let the GAL/evaluator know about the other parent's problems, particularly those things that may cause (or have caused) harm to the children, such as domestic violence against you, or abuse of the children.

- Simply state your concerns about the other parent as calmly and reasonably as possible without attacking the other parent personally.
- Provide the evaluator with any written evidence you may have. Examples: police reports, Protection Orders, etc.
- Provide the evaluator with names and current contact information for witnesses with direct knowledge about your strengths and about the other parent's problems. Make sure these witnesses know that the evaluator may contact them and will agree to talk about your situation.
- Collect written statements from your witnesses if requested. Have your witnesses be cooperative with the GAL/evaluator on your case.
- **Focus on what's good for the children.** The evaluator/GAL's job is to find out what's in the best interests of the children – not what's in yours or the other parent's best interest.
- **If you do not understand, ask.** If you do not understand something in the evaluation process, ask for help. If there's a questionnaire you must fill out and you are having trouble, ask your community advocate, lawyer, friend or relative to help you. If the evaluator tells you to do something, or asks you a question you do not understand, ask the evaluator to explain.
- **Have an appropriate amount of contact with the GAL or evaluator:** The GAL or evaluator is assigned to your case. You may call him/her with questions or new information. Do not overwhelm the GAL by calling every day, or by stopping by his/her office without an appointment. The evaluator or GAL will take every contact with you

into consideration when writing his/her report. Try to be respectful of the GAL's time. This may encourage the GAL to be respectful of your time as well.

What can I do to address issues that may be important to the GAL or the court?

- **Accept responsibility for your own problems. Admit your mistakes.** You should usually admit any problems that you have up front. In most cases, the evaluator will find out about them anyway. (The other parent probably knows what they are!)
- **Take advantage of parenting resources. Get help for yourself.** Often, the evaluator will recommend parenting classes for one or both parents. Get a head start: Sign up for classes on your own. Free or low- cost classes may be available. Or ask the evaluator for suggestions. Many parents find that getting counseling for themselves and their children is very helpful during a stressful family law case, especially if the children have witnessed domestic violence or have been abused. Ask your evaluator about organizations that provide counseling.
- **If you have a mental illness, work to stabilize your condition. Try to keep it stable.** The fact that you have a mental illness doesn't automatically mean that the court will take your children away. However, you should try to keep your illness stable to show you will be able to provide consistent safe parenting for your children. If you have prescriptions, take them regularly. Go to any counseling that has been recommended for you. If you have a doctor, counselor or advocate who can explain your illness to the evaluator and

say good things about your stability and parenting skills, have that person contact the evaluator.

- **Try to maintain stable housing if possible.** If you move around frequently, it may look like you cannot offer a stable home to the children. (Note: If you are moving to avoid domestic violence, explain that to the evaluator.) Of course, sometimes you need to move due to financial or other problems. If so, do what you can to help the children cope with the move. Examples: take them to counseling or get their teachers to help ready them for a new school.
- **Make sure your children are up-to-date on medical care.** If you do not have health insurance, you may be able to get Medicaid for your children or the Basic Health Plan at a reduced cost. Call 1-800-826-2444 for information about Basic Health. Contact your local DSHS office about Medicaid.
- **If you can, try to take part in the children's school.** Do what you can to get your child to school regularly and on time. Also, try to take part in the children's school events. If possible, go on field trips or other events. Make sure you go to parent-teacher conferences. If you are limited English speaking, you have the right to ask the school to provide an interpreter so that you may effectively attend teacher-parent conferences and other school events.
- **Be careful about new relationships.** Try to be cautious if entering a new romantic relationship. This might seem unreasonable. However, your life is under a microscope right now. Any problems that your new boyfriend/girlfriend has will reflect on you, especially if it could somehow hurt the children.

Follow the Rules

- **Be consistent in visiting with the children.** If the children do not live with you but you have visits with them, go to the visits consistently – even if they are supervised visits and you do not like that. Be on time for picking them up and dropping them off. Do not miss a visit unless you really have to. Supervised visits can be expensive, but try to find a way to pay for them. (Examples: gather resources, borrow money from family, ask for a child support credit, or try to find a neutral person to supervise who will not charge you for it.). This will show your concern for your children to the court, and more importantly, to your children.
- **Do not deny the other parent court-ordered visitation without a very good reason.** If the children live with you and the other parent has visits under a court order, let the other parent visit unless you have a very good reason that you haven't told the court about before. If you must cancel a visit because of an emergency (example: the child is too sick to go), let the other parent know as soon as possible and offer to arrange a make-up visit. If you cancel the other parent's visit because you believe the child will not be safe (example: the other parent shows up and smells like s/he's been drinking), then make a motion in court, or try to get an emergency ex parte order allowing the change, as soon as possible to try to change the visitation schedule or parenting plan legally. Do not take matters into your own hands if you can avoid doing so.
- **Follow the court's orders.** The court may have ordered you to get a drug/alcohol evaluation, to attend a parenting class, or get batterer's

treatment, for example. Do what the court orders as soon as possible, even if the other parent is not obeying the order. Be persistent: It might take several weeks to get an appointment. Even if you think you do not have the problem the other parent is claiming, get any evaluations that the court order recommends. This part of the process can be frustrating, especially when the court has ordered you to do many different things. However, if you have a problem, such as substance abuse, that the court might think interferes with your parenting, an evaluation or treatment is your chance to address it before the court makes a final custody decision. If you do not have the problem that the court has ordered evaluated, then you can use the information you get from the evaluation to prove it. In addition, the court and the GAL/evaluator expect you to obey its orders. They are likely to draw a negative conclusion about you if you do not.

- **Gather Your Evidence:**

- **Be active.** Do not rely on the evaluator to gather information that helps you. Do what you can to get that information to the evaluator.
- **Gather witnesses.** As soon as possible after you find out who the evaluator/GAL is, give the evaluator a written list of names, addresses and telephone numbers of everyone with helpful information about you as a parent (or about the other parent's problems). These are your "witnesses." The best witnesses are "professionals" or "neutral" people such as teachers, counselors, doctors, daycare

providers, landlords, etc. Also helpful are friends, neighbors and family members. Some evaluators will not contact witnesses who are not involved with you or your family on a professional basis. Make sure you let your witnesses know that the GAL or evaluator might be contacting them. Make sure this is okay with your witnesses. Explain to your witnesses that they must return the GAL/evaluator's phone calls promptly. (The evaluator may not have the time to try to call multiple times.) If the evaluator doesn't contact a witness you think has important things to say, ask the witness to write a declaration, letter or statement that describes you as a parent, about the other parent's problems, or about the children. Give a copy to the evaluator and a copy to the other parent or parent's attorney, file a copy with the original with the court, and keep a copy with your records. **Keep in mind:** under the law, both parents are allowed to look at the evaluator's file. If you have a reason that you do not want the other parent to know the name or address of one of your witnesses, you must blank out that information on the other party's copy of anything that you send to the evaluator. An evaluator might overlook safety and confidentiality for you and others. It's up to you to bring these issues to the evaluator's attention.

- **Gather records.** Gather as much written evidence as you can to

show that you are a good parent, or to support your claims about the other parent's abusive conduct or other problems. The evaluator will not do this for you! Keep in mind: the other parent and his/her attorney will have access to all or most of the information you give to the evaluator.

Some documents that can be helpful to prove the other parent's abusive conduct/substance abuse/violence:

- criminal records
- police reports
- medical records (yours, even if you didn't tell the doctor that the other parent caused the injuries; also the children's, if related to abuse)
- sex offender treatment records for the other parent
- protection orders, no contact orders, including the petition for protection order and any declarations you used to get the order (even if the orders have expired)
- protection orders or other family law records about the other parent abusing another spouse/partner or other children
- pictures of you or the children with bruises or injuries
- letters of apology or hate letters written to you by the other parent

Some documents that can be helpful regarding your parenting of the children:

- school attendance records and grades; daycare records showing you picked up or dropped off the children
 - medical records showing that you took the children for medical care
 - certificates from parenting classes, etc.
 - declarations from teachers, counselors, daycare providers, baby-sitters, coworkers, doctors, neighbors, friends or relatives about your parenting skills
- Help the evaluator understand you. Some evaluators have little experience with people who are different from them. If you are a refugee or immigrant, a person of color, or you are culturally or religiously very different from the average white American, the evaluator may not understand your culture. If possible, look for someone from your community or church to speak with the evaluator and explain some of the cultural dynamics the evaluator may not understand. Example: if it's common in your culture for parents to allow children to stay for extended periods of time with grandparents and other relatives, ask someone from your community to talk with the evaluator about that. Professionals (such as community advocates or teachers) make the best witnesses, but even a neighbor or friend could help.

How do I prepare for the interview?

- Ask for an interpreter (if needed). You or a friend can contact the evaluator several days before the interview to ask the evaluator/GAL to get an interpreter for you. You shouldn't have to pay for an ASL (sign language) interpreter. If you have trouble speaking English, you may need to pay for your language interpreter if you can afford it. (Interpreters charge between \$25 and \$70 per hour.) If the evaluator will not provide an interpreter, you may need to make a motion in court to ask for an interpreter to be appointed for you for free during the interviews. The court may or may not agree to pay for a language interpreter. If your request is refused, contact the CLEAR line at 1-888-201-1014.
- Appearance is important. Sometimes the evaluator will want to interview you and the children at your home. Make sure it's clean. If the evaluator will see your car, clean it up too. The evaluator may look to see if the children have a bed to sleep in, toys and books, and clean clothes. Although this may seem invasive, it's important in the evaluation process.
- Your actions and your words will be noticed and observed. During an interview where the children are present, the evaluator will be watching how you interact with the children as well as what you have to say. Evaluators are frequently impressed by discipline that focuses on setting limits, withholding privileges and doesn't involve spanking, harsh words or threats. The evaluator will be watching your interaction with your children during the interview. The children should not run wild around the house while you are talking with the

evaluator. If you need to, take time out to discipline them. You need to be in charge. Evaluators also look to see if the children seem comfortable with you.

- Do not coach the children. The evaluator will probably interview your children alone, if they're old enough. Do not ever tell the children what to say if the evaluator questions them. Do not ever give your children any detail about the court proceedings or the allegations that the parents are making against one another. Just let the children know that it's okay to speak with the evaluator and that the evaluator might ask them some questions.

What should I do after the interview?

- Keep in touch with the evaluator. Check in once every two weeks or so. Ask if the evaluator has had trouble contacting your witnesses, and whether s/he's received any written information you sent.
- Ask for a copy of the report. Sometimes the evaluator/GAL will not finish the report early. S/he'll have it waiting for you when you go to your next court hearing. You can ask to get a copy of the report as far in advance of the next court hearing as possible. Offer to go pick it up if necessary. The earlier you get the report, the more time you will have to prepare a response for the court hearing and bring other evidence to court if necessary. If you receive the report in advance of a hearing, try to respond to the report in writing if there are things you believe the evaluator made mistakes about. Your response will usually be in the form of a Declaration from you. It will explain what you disagree with, and point out any discrepancies in the report. Any written response from you must be

provided to all parties, the GAL, and the court (including a “working papers” copy for the judge of commissioner) in advance of the hearing. The GAL is required to provide the report at least 60 days before trial.

For temporary orders hearings, a Family Court Services report is often submitted the day of the hearing. Ask the court for more time to read the report if necessary. If you feel you need to explain or clarify anything in the report to the Judge, explain that you need to do that. If your report is submitted with a motion, or with papers in advance of a hearing, be prepared to point out anything you think is incorrect about the report, or to emphasize the recommendations you

agree with. Until the recommendations in a report have been entered by the court in the form of an order, they aren’t official.

- How to deal with a negative report. Under the law, GALs must undergo certain training and meet certain qualifications. The person’s professional association may also have requirements that s/he must follow. If you think that the GAL or evaluator hasn’t acted appropriately in your case, or if the report isn’t positive for you, call the Legal Voice (206) 621-7691 or (206) 521-4317 TTY for more information. Men as well as women may seek information from the Legal Voice.

3106EN

This publication provides general information concerning your rights and responsibilities. It isn’t intended as a substitute for specific legal advice. This information is current as of the date of its printing, July 2011.

© 2011 Northwest Justice Project — 1-888-201-1014

(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial purposes only.)