



Guardian Ad Litem Report: The basics and how to respond

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- ❖ Read this only if you are involved in a family law case filed in a Washington State court.
 - ❖ You can find all the fact sheets we link to here at [WashingtonLawHelp.org](https://www.washingtonlawhelp.org).
 - ❖ We use “judge” here to refer to judges and family court commissioners.
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Northwest Justice Project gratefully acknowledges the work of Legal Voice, whose original publication we largely adapted here.

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Part 1. The Basics

What is a Guardian ad Litem?

In a family law case where you are fighting over the parenting plan, the judge may appoint (assign) a Guardian ad Litem (GAL). A GAL investigates your household and the other parent's household to recommend to the court a parenting plan in the child's best interest.

A GAL can be a lawyer, social worker, psychologist, or trained community volunteer called a Court Appointed Special Advocate (CASA). Read [Guardian ad Litem in Family Law Cases](#) to learn more. The judge may limit the GAL's report to specific issues, such as intimate partner violence or a parent's alcohol or drug abuse.

❖ We use "GAL" here to refer to GALs, CASAs and parenting evaluators.

What kind of recommendations can a GAL make?

- Whom the children should live with.
- How much visitation time a parent should have.
- If a parent's visits with the children should be supervised.
- Who gets to make decisions about the children.
- If a parent should meet certain requirements to be able to spend time with the children.

How does the GAL make their recommendations?

The GAL usually writes a report for the court. The report describes:

- What the GAL did to investigate.
- The GAL's recommendations.
- The reasons for the GAL's recommendations.

When will I get the GAL's report?

It depends. The court order appointing the GAL should say when the report is due. If not, ask the GAL when you can expect to get it. If you have a hearing coming up, ask the judge to set a date at that hearing.

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- ❖ Under state law at [RCW 26.12.175\(1\) \(b\)](#), the GAL shall file their report at least 60 days before trial. Another state law at [RCW 26.09.220\(3\)](#) says any investigator must provide both of you a report at least 10 days before a hearing.
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Part 2. How to Respond

Can I respond to the report?

Yes. You may not have much time to do so. Have a set of blank Declaration forms ready for you and any witnesses to fill out as soon as you see the report.

Call the court clerk ahead of time to find out how many days before your hearing or trial you must file Declarations and any other related documents at the courthouse and have them delivered to the other parties and GAL.

What if I got the report too late to respond to it?

Let the judge know. Ask the judge for more time to respond.

Can I just ignore the GAL's report?

No. The report is usually important. It can sway the court.

Will the judge just automatically do what the GAL recommends?

No. The judge does not have to follow what it says. If you disagree with the report, you must respond and show the court why it should not follow the GAL's recommendations.

How do I write a good declaration in response to the GAL report?

If you have strong objections to the GAL's report when you get a copy, these tips may help.

1. **Be prepared to experience a strong emotional response.** It's possible that what you read will be upsetting.
2. **Try to meet with a lawyer before your response is due.** You can take the steps in Part 3 yourself so your lawyer has better information to help you. You can also read [Getting Your Family Law case paperwork ready](#).
3. **Carefully review the report.** Make a copy of it for yourself. Keep a clean copy too. Mark any major errors in the report, things that you feel are wrong, and recommendations you feel are inappropriate. Look for things you or others told the GAL that got left out.
4. **Think about how to respond to what the report says.** It's best to use evidence from someone with no personal interest in your case, like testimony or declarations from professionals who work with you or your children.
5. **List important things you told the GAL that got left out of the report.** At your trial, you can ask the GAL why the GAL ignored or left out those items.

❖ Read [How to Write a Declaration in a Family Law Case](#) to learn more.

What else can I do to respond to the GAL report?

Ask the GAL for a copy of their file on your case. You should be able to see all non-confidential information, including information from and about the other party. The GAL must let you view the file, even if you do not have a lawyer. You can read the law saying this at [RCW 26.09.220\(3\)](#). If the GAL refuses to let you see the file, talk to a lawyer. See contact info below.

Do I have to pay for a copy of the GAL report?

The GAL might copy the file for you, or you may have to do it yourself. You may have to pay a fee for copying.

What am I looking for when I look through the GAL report?

Look for:

- Information from the other parent.
- Notes of conversations with witnesses.
- Negatives about the other parent that are not in the GAL's report.
- Positives about yourself that are not in the GAL's report.
- Phone calls from witnesses the GAL did not call back.
- Declarations that are in the court file but not the GAL's.
- Records from school, CPS, and/or treatment providers.

Take notes about any of the above to remind you how to respond to any negatives in the report, and to question the GAL about what they left out of their report.

Can I check with my witnesses who spoke with the GAL?

Yes. This is a good idea. However, **the GAL report is sealed. Do not show it to your witness.**

Instead, explain to your witness how the report described their interview. Ask your witness if the report accurately summarizes what the witness told the GAL. If not, ask the witness to write a declaration and/or testify at hearing or trial. You must file with the court any declarations you want it to consider, and send copies to all other parties and the GAL. You might also have to get copies of the declarations to the judge before any scheduled hearing, called "working copies." Ask the clerk if they require working copies, and if so how to get them to the judge. Read [What are Working Copies](#) to learn more. Keep copies for yourself of any declarations you file.

If the GAL report is for a trial, your witnesses must testify in person. They should not write declarations. If you plan to call witnesses at trial, you must disclose those witnesses to the other parent before trial. Your court might have a witness form you must use.

Part 3. Addressing Possible Issues

I gave the GAL a list of witnesses or references to contact. Their names were not in the GAL's notes or report.

Some GAL's will not contact witnesses who are not, for example, a social worker, counselor, teacher, or other type of professional involved with you or your family. If you think a witness is important, ask the witness to write a declaration. File the original of it with the court. Send the other parties and the GAL copies. Keep a copy for yourself. Alternatively, if you're facing trial, ask the witness to testify at trial.

If you feel the evaluation went poorly because, for example, you were nervous or the children misbehaved more than usual, ask in writing for another meeting or explain to the GAL why things went poorly. If the GAL refuses another meeting, write down what the GAL said, when, and if the conversation took place by phone, letter, or in person. You can also give a declaration explaining why the evaluation went poorly. It should focus on what happened during the meeting. Don't personally attack the GAL. You may also testify about the evaluation during the hearing or trial.

What if I could not communicate with the GAL or the GAL misunderstood me because of disabilities or language barriers?

Put that in a declaration. If you feel the GAL was influenced by stereotypes about your disability, race, ethnicity, or culture, try to find a witness with expertise about your disability, race, and so on, who can explain your behavior in relation to your background. Ask that person to make a declaration or be a court witness.

Ask any professionals, counselors, or advocates who regularly spend time with you and your children to submit declarations and/or testify at trial. Add up how much time these people have spent with you and/or your kids. Compare it to the time the GAL had to observe you and/or your kids. Someone who has spent time with you and/or your kids may have much more information about the situation, especially if they have known you a long time. If your witnesses are trained psychologists, psychiatrists, social workers, or otherwise trained in child development, you can compare their training and experience to the GAL's. If you ask your treatment providers or others to testify for you, the other parent and judge will question them, too. When you ask people for declarations, the other parent and judge will read the declarations.

If the GAL made conclusions about your mental health that seem wrong, try to get a psychological evaluation by someone else. Do not tell the GAL you are having an evaluation unless it goes well and you want the person to testify at trial. If you cannot get a more positive evaluation, try to show how you are working to stabilize or improve your mental health. If you are in regular counseling or taking medication, ask your health care provider to write a declaration and/or testify about how the treatment is helping you.

Read the GAL's report over very carefully for places where the GAL has overstated their position. Example: The GAL made conclusions about you smoking marijuana to a point where it impacts your parenting. The GAL had little supporting evidence from the file or in the report. All the evidence the GAL had was that you do sometimes smoke when you do not have the children, or when you are out at a party. The GAL had no evidence showing you did this frequently, or that this limits your ability to parent your children. You should point this out to the court during your hearing or trial. Let the court know the GAL did not back up their conclusions.

Part 4. Getting Ready for the Hearing or Trial

You must file your Declarations and other documents the required number of days before your hearing and deliver them to the other parties and GAL. Ask the clerk if you must also submit "working copies." (See "Can I check with my witnesses who spoke with the GAL?", above.)

If you cannot meet the deadline, and you have good reason (**Example:** The GAL provided the report too late for you to respond), bring your originals and copies to the hearing. The judge might agree to read them. Hearings are usually short. Courts do not usually allow witnesses to testify at a hearing. For trial, be sure you have met your county's deadlines for giving the court and other parent the names, contact info, and summary of testimony about each witness you want to call.

- **Focus on your positives.** Try to find witnesses who will testify about why you are a good parent, especially if they are not friends or family. Put them on the witness list for trial. The deadline for disclosing witnesses you want to testify at trial is often before the date you will get the GAL report. Try to guess what witnesses you should have testify, so you can disclose them by the deadline.

Your witnesses should know and be able to testify about these **parenting responsibilities**:

- Keeping a loving, stable, consistent, and nurturing relationship with the child.
 - Taking care of the child's daily needs, such as feeding, clothing, physical care and grooming, supervision, health care, and day care.
 - Getting the children to school.
 - Helping the children develop and keep appropriate relationships.
 - Using good judgment about the child's welfare.
 - Supporting the children financially.
- **Look at what the GAL left out.** If the GAL left out important info from witnesses related to parenting responsibilities, ask your witnesses to testify about your positives and about how well you perform those responsibilities.

If the GAL did not speak to witnesses whom you believe are important, or left out information the witnesses provided, be ready to explain why that testimony or declaration is important.

Example: Jody spends a lot of time with you and your children, or has had a long, stable relationship with your children. You should explain to the court why the GAL's report might be different if the GAL had Jody's testimony.

- Make sure the report does not leave out the other parent's behavior that matters to parenting plan restrictions. The court would consider harmful to the children:
 - Abandoning the children or not seeing them for a long time
 - Substantial refusal to perform parenting responsibilities
 - Physical, sexual, or pattern of emotional abuse of any children
 - History of intimate partner violence, assault, or sexual assault, or conviction for a sex offense
 - Long-term emotional or physical problem that would interfere with the person's ability to be a good parent
 - Long-term drug, alcohol, or other substance abuse problem affecting the person's parenting ability



- Lack of emotional ties between parent and children, or impairment or estrangement in their relationship
- Abusive use of conflict creating danger of damage to child's psychological development
- Keeping a child away from you for a long period without a good reason, such as a court order

If any of this information was not in the GAL report, try to get proof like police, medical, or counseling reports or declarations to prove the court should place limits on the other parent. File these things with the court. Send the other parties copies. Keep a copy for yourself. You must disclose these documents to the other parent and the court as potential trial exhibits before any discovery deadlines in your county.

Try not to make general statements about the other parent, such as "Jo is a bad parent," or "the children are much safer now living with me." Instead, you should describe specific things, and state when and where things happened. Example: "I believe Jo has a drinking problem and has put the children at risk. About a year ago, Jo knocked over our mailbox while driving. I ran out to the street to see what had happened. Jo was standing next to his car. I smelled liquor on his breath. I have seen him weaving down the road toward our house in his car three other times this year. On all of those occasions, the children were in the car with him."

- **Countering the negatives about you.** If the GAL has concerns about your ability to perform the parenting responsibilities listed above, or mentions there should be restrictions, show how you have been working to address these issues. Read [How to Work with GAL's and Parenting Evaluators](#) to learn more. Explain to the court how you have been working to fix your problems and are using any resources available to improve your position.

Part 5. How to File a Grievance

You can file a complaint (called a grievance) against the GAL even if your case is still active. Your court should have a Guardian ad Litem Rule 7 (LGALR 7). That rule should tell you how to file a grievance against the GAL with the court. Do not do this lightly. There are no self-help forms for filing this motion. Talk to a lawyer before filing a grievance. If you have a very low-income, CLEAR's contact info is in the Get Legal Help section.

❖ If the case is over, filing a grievance **will not change the decision.**

You should address the written grievance to the GAL Program Manager or Court Administrator. Grievance procedures vary. Check with the court clerk or GAL Program Manager to find out how to file a grievance in your county.

❖ If you can prove the GAL made a false statement under oath at a hearing or at trial or made a false statement elsewhere during your case such as in the report or to a party, the court will not use them as GAL again.

To file your complaint with a professional organization to which the GAL is a member, contact the appropriate organization and ask them to investigate your claim that the GAL did not perform the job properly.

- If your GAL is a Court Appointed Special Advocate (CASA), you can file a complaint with the CASA program.
- You should file a complaint about a **Family Court Services worker** with the court. You can make a complaint to the County Ombudsman or to the manager of Family Court Services, or the Family Law Department.
- To make a complaint about a registered **counselor or social worker (MSW)**, or to find out if your counselor is certified or registered with the State of Washington, contact the Department of Health, Health Professions Quality Assurance Division at (360) 236-4700 or hsqa.csc@doh.wa.gov. They can also provide written info, including a complaint form.
- For a complaint about a **psychologist (Masters or Ph.D. in psychology)**, send a detailed letter about the provider to Department of Health, Examining Board of Psychology, P.O. Box 47869, Olympia, WA 98504.
- To make a complaint about a **psychiatrist (M.D. Psychiatry)**, contact the Medical Quality Assurance Commission at (360) 236-2762 or Medical.Complaints@doh.wa.gov.
- To make a complaint about an **attorney GAL**, call the Washington State Bar Association, Legal Department, at (206) 727-8207. Read the info on their website at wsba.org (search for “grievance”) before calling.

Part 6. Where Can I Learn More?

- List of CASA programs: washingtonstatecasa.org
- List of GAL Program Managers: bit.ly/3pVcc8v
- Print **blank Declaration forms** (FL All Family 135): courts.wa.gov/forms

Get Legal Help

- **Apply online** with **CLEAR*Online** - nwjustice.org/apply-online
- **Facing a legal issue in King County** (other than Eviction or Foreclosure)? Call 2-1-1 (or toll-free 1-877-211-9274) weekdays 8:00 am - 6:00 pm. They will refer you to a legal aid provider.
- **Facing a legal issue outside of King County** (other than Eviction or Foreclosure)? Call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm or apply online at nwjustice.org/apply-online.
- **Facing Eviction?** Call 1-855-657-8387.
- **Facing Foreclosure?** Call 1-800-606-4819.
- **Seniors (age 60 and over)** with a legal issue outside of King County can also call CLEAR*Sr at 1-888-387-7111.

Deaf, hard of hearing or speech impaired callers can call any of these numbers using the relay service of your choice.

Interpreters provided.

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