Committee for Public Counsel Services
Children and Family Law Division
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MEMORANDUM

To: CAFL Attorneys
From: CAFL Training Unit
Re: Changes in Guardian Ad Litem Appointments
Date: November 19, 2008

The Administrative Office of the Juvenile Court has made changes to the categories of Guardian Ad Litem (GAL) appointments. The Juvenile Court eliminated Educational Advocates from the categories of GAL Appointments, and created a new category called Guardian ad litem/Education Surrogate. The Juvenile Court has posted on its website a new form, entitled "Appointment of A Guardian Ad Litem," which outlines the GAL categories, most of which are unchanged. The Juvenile Court has limited GAL appointments to 10 hours. A GAL may request additional hours in increments not to exceed 10 hours by motion. The Juvenile Court has posted a new Guardian ad litem Motion for Additional Hours/Extension on its website. It is our understanding that these changes are effective immediately.

A GAL/Education Surrogate may only be appointed in care and protection cases where the child has been removed from the custody of his or her parent(s). This category of GAL makes all special education decisions on behalf of the child, including assessment of the educational plan, participation in Team meetings, acceptance or rejection of the proposed educational program, and filing a complaint with the DOE. He or she must be certified to act as Education Surrogate Parent pursuant to Federal Regulation 34 CFR 300.519. He or she does not have the authority to litigate educational issues in federal or state courts. (See GAL/Legal Rights).

A Juvenile Court judge has the authority to appoint anyone as a GAL/Education Surrogate as long as they have the knowledge and skills to adequately represent the child's interest, and have no personal or professional interest that conflicts with that of the child. CAFL attorneys who have care and protection cases in which the court appointed a GAL/Educational Advocate should consider filing a motion with the trial court to appoint the GAL/Educational Advocate as a GAL/Education Surrogate.

We have posted the following documents on the CPCS/CAFL Website at http://www.publiccounsel.net/Practice_Areas/cafl_pages/practice_aids.html. A Motion to Appoint a GAL/Education Surrogate; the Juvenile Court form entitled "Appointment of a Guardian Ad Litem;" and the Juvenile Court form entitled "Guardian ad litem Motion for Additional Hours/Extension."