

**Rule 903. Appointment of Guardian Ad Litem****Rule 903.01 Order by Court; Recommendation of Guardian Ad Litem for Appointment**

When the court orders the appointment of a guardian ad litem in a particular case, the district guardian ad litem manager or the manager's designee shall promptly recommend a guardian ad litem for appointment. If in the exercise of judicial discretion the court determines that the guardian ad litem recommended is not appropriate for appointment, and communicates the reasons for that determination to the district guardian ad litem manager or the manager's designee, the district guardian ad litem manager or the manager's designee shall promptly recommend another guardian ad litem for appointment. No guardian ad litem shall be appointed unless recommended by the district guardian ad litem manager or manager's designee.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005.)

**Rule 903.02 Juvenile Court Appointment**

**Subdivision 1. Generally.** A guardian ad litem shall not be appointed or serve except upon written order of the court. The order shall set forth:

- (a) the statute or rule providing for the appointment of the guardian ad litem;
- (b) the provisions for parental fee collection as applicable under Minnesota Statutes, sections 260B.331, subdivision 6, paragraph (a), and 260C.331, subdivision 6, paragraph (a), and as established by the State Guardian ad Litem Board; and
- (c) in an adoption proceeding, authorization for the guardian ad litem to review and receive a copy of the adoption study report under Minn. R. Adoption P. 37 and the post-placement assessment report under Minn. R. Adoption P. 38 to the extent permitted by Minnesota Statutes, section 259.53, subdivision 3.

If the court has issued an order appointing a person as a guardian ad litem in a child in need of protection or services proceeding, the court may, but is not required to issue an order reappointing the same person in the termination of parental rights or other permanent placement determination proceeding. An order is required only if a new person is being appointed as guardian ad litem.

**Subd. 2. Guardian Ad Litem Shall Not Also Serve on Same Case as Petitioner.** When a guardian ad litem is appointed pursuant to Minnesota Statutes, section 260C.163, subdivision 5, paragraph (a), the court shall not appoint as guardian ad litem an individual who is the party, or an agent of the party, who has already filed the initial petition in the case pursuant to Minnesota Statutes, section 260C.141.

**Subd. 3. Representation of Child's Parent or Legal Custodian.** The court may sua sponte or upon the written or on-the-record request of a party or participant appoint a guardian ad litem for a parent who is a party or the legal custodian if:

- (a) the court determines that the parent or legal custodian is incompetent to assist counsel in the matter or understand the nature of the proceedings; or
- (b) it appears at any stage of the proceedings that the parent is under eighteen (18) years of age and is without a parent or legal custodian, or that considered in the context of the matter the minor parent's parent or legal custodian is unavailable, incompetent, indifferent to, hostile to, or has interests in conflict with the interests of the minor parent.

Appointment of a guardian ad litem for a parent shall not result in discharge of counsel for the parent.

(Added effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

***Advisory Committee Comment - 2004 Amendment***

*Rule 903.02 prohibits appointment as a guardian ad litem in a juvenile court case any individual, or the individual's agent, who has filed the initial petition in the case. The Rule is also intended to prohibit an individual serving as a guardian ad litem in both a family court matter and a juvenile court matter involving the same child, if the family court guardian ad litem has filed the initial petition in the juvenile court matter. The Rule does not prohibit a guardian ad litem already serving in a juvenile court matter from continuing to serve if, in the course of the case, the guardian ad litem files a petition or other pleadings.*

***Advisory Committee Comment - 2006 Amendment***

*If paragraph (c) in Rule 903.02 is not included in the initial order appointing the guardian ad litem in a juvenile protection matter, and the matter proceeds to adoption, the succeeding guardian ad litem appointment order in the adoption matter should include paragraph (c).*

*If the minor parent or incompetent adult is unable to admit or deny the petition, the court may choose to appoint a substitute decision maker or legal guardian to admit or deny the petition.*

**Rule 903.03 Family Court Appointment**

A guardian ad litem shall not be appointed or serve except upon written order of the court. The order shall set forth:

- (a) the statute or rule providing for the appointment of the guardian ad litem;
- (b) the specific duties to be performed by the guardian ad litem in the case;
- (c) to the extent appropriate, deadlines for the completion of the duties set forth;
- (d) to the extent appropriate, the duration of the appointment; and
- (e) the provisions for parental fee collection as applicable under Minnesota Statutes, sections 257.69, subdivision 2, paragraph (a), and 518.165, subdivision 3, paragraph (a), and as established by the State Guardian ad Litem Board.

(Amended effective January 1, 1999; renumbered and amended effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)

**Rule 903.04 Other Roles Precluded**

**Subdivision 1. Generally.** A guardian ad litem under the supervision of the State Guardian ad Litem Board shall not be ordered to, and shall not perform, the following roles in a case in which the person serves as a guardian ad litem;

- (a) custody evaluator pursuant to Minnesota Statutes, section 518.167; or
- (b) parenting time evaluator; or
- (c) parenting time consultant; or
- (d) family group decision making facilitator; or

- (e) early neutral evaluator; or
- (f) mediator, as that role is prescribed in Minnesota Statutes, section 518.619, and Rule 310 of the General Rules of Practice for the District Courts; or
- (g) arbitrator or individual authorized to decide disputes between parties; or
- (h) parenting time expeditor, as that role is prescribed in Minnesota Statutes, section 518.1751; or
- (i) substitute decision-maker under Minnesota Statutes, section 253B.092; or
- (j) evaluator charged with conducting a home study under Minnesota Statutes, section 245A.035 or 259.41; or
- (k) attorney for the child.

**Subd. 2. Roles Distinguished.** Nothing in this rule shall prevent a properly qualified person who also serves in other cases as a guardian ad litem from serving in any of the roles in subdivision 1 on a privately paid basis. A guardian ad litem under the supervision of the State Guardian ad Litem Board is not the same as a mediator, arbitrator, facilitator, custody evaluator, or neutral as those titles and roles are described in Rule 114 of the General Rules of Practice for District Courts.

(Added effective January 1, 2005; amended effective January 1, 2007; amended effective July 1, 2015.)