

**PROTOCOL FOR APPOINTMENT BY THE JUVENILE COURT
OF A CIVIL GUARDIAN AD LITEM
FOR A DEPENDENT CHILD
Revised 2021**

This protocol outlines the procedures to be followed when it appears to the juvenile court that civil litigation may be necessary to protect or pursue the interests or rights of a dependent child in another judicial or administrative forum *and* the court decides to appoint a guardian ad litem pursuant to Welfare and Institutions Code section 317, subdivision (e)(3) and California Rules of Court ("CRC"), rule 5.660(g)(3)(C). (See also Super. Ct. San Diego County, Local Rules, rule 6.5.1 ["Informing the Court of Other Interests of a Dependent Child"] (hereafter "Local Rule 6.5.1"); *San Diego County Dept. of Social Services v. Superior Court* (2005) 134 Cal.App.4th 761 [hereafter "*San Diego County*".]) This protocol does *not* apply when advocacy may be necessary to protect or pursue a dependent child's interests or rights under education law or federal immigration law.

For purposes of this protocol, a "dependent child" is a child who is the subject of a petition pursuant to Welfare and Institutions Code section 300.

1. Before the court will consider whether a civil guardian ad litem ("GAL") should be appointed for the dependent child, the requirements described in CRC 5.660(g) and Local Rule 6.5.1 must be satisfied.
2. If it appears to the court that litigation in another forum may be necessary, the court must appoint a separate civil GAL for the dependent child (*San Diego County, supra*, 134 Cal.App.4th at p. 769). The court will refer the matter to the San Diego County Bar Association ("SDCBA") to identify a potential GAL. Upon identification, the court shall then appoint that person as GAL for the child to make decisions on the child's behalf related to the potential civil proceedings.
3. The court will issue an order appointing the GAL, and copies of the order will be provided to the GAL, the SDCBA, the child's social worker, the child's attorney, and the child's CASA if one is appointed. Upon the filing of an action in another forum, that court may reappoint the GAL appointed by the juvenile court or appoint a different person as GAL for the child pursuant to Code of Civil Procedure section 372.
4. The person appointed as a civil GAL for the dependent child must be willing and able to perform any of the following duties, if appropriate under the circumstances:
 - (a) Make decisions for the child in regard to investigating a possible civil action or administrative claim on behalf of the child;
 - (b) Initiate a civil action or administrative claim against the appropriate person(s) and/or entity or entities by filing required documents;
 - (c) Seek independent counsel, on a pro bono or contingency basis, to investigate and prosecute any actions or claims on behalf of the child;

(d) Seek re-appointment as the civil GAL for the child by the court in which the action or proceeding is pending, unless the child may appear without counsel pursuant to Code Civ. Proc. § 372(b);

(e) If re-appointed by the civil trial court, control the litigation, and, with court approval, admit matters on behalf of the child after consultation with [1] the child in age-appropriate language if the child is of sufficient age and maturity and [2] the child's dependency attorney;

(f) If re-appointed by the civil trial court, exercise the authority described in Code Civ. Proc. § 372(a): the "power, with the approval of the court in which the action or proceeding is pending, to compromise the same, to agree to the order or judgment to be entered therein for or against the [child], and to satisfy any judgment or order in favor of the [child] or release or discharge any claim of the [child] pursuant to that compromise";

(g) Comply with all applicable laws and rules protecting the confidentiality of information regarding the dependent child (e.g., Welf. & Inst. Code §§ 827, 10850).

5. Upon appointment of a civil GAL, the court will authorize the child's attorney to disclose to the civil GAL any information necessary for the civil GAL to perform the duties listed in paragraph 4 above. To further disseminate the information provided by the child's attorney for use in the civil proceeding(s) or if additional information is sought from the juvenile case file, the attorney representing the child in the civil proceeding(s) must file a WIC § 827 petition (see Local Rule 6.6.2). If the civil GAL has not engaged independent counsel pursuant to paragraph 4(c) above, the civil GAL must file the WIC § 827 petition. If the petition is granted, the court will issue a protective order specifying the records to be disclosed and the procedure for providing access and/or photocopying.

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