

Child Welfare Policy Manual

Questions & Answers

2.1D CAPTA, Assurances and Requirements, Guardian Ad Litem

1. Question: What is the meaning of the requirement in section 106(b)(2)(B)(xiii) of CAPTA for guardians ad litem, including the requirement that they obtain a first-hand understanding of the situation and needs of the child?

Answer: In order to provide States with more flexibility in appointing a guardian ad litem, the CAPTA clarifies that such guardian does not have to be an attorney, but also may be a court-appointed special advocate for the child. The Congress (in 1996) noted that, under the current system, there are more and more cases where an appointed guardian ad litem has no contact with the child and makes uninformed recommendations to the court. Therefore, language was added to clarify that the role of such individuals include obtaining a first-hand understanding of the situation in order to make an informed recommendation to the court (Congressional Record - House, September 25, 1996, p. H11149). In addition, Congress added language to this provision in 2003 via Public Law 108-36 to require that States train guardians ad litem appropriate to their role in representing children. Public law 111-320 (2010) further amended section 106(b)(2)(B)(xiii) to require that the training include early childhood, child, and adolescent development.

- **Source/Date:** ACYF-NCCAN-PIQ-97-01 (3/4/97); updated 2/3/05; 12/9/11
- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106(b)(2)(B)(xiii)

2. Question: The Child Abuse Prevention and Treatment Act (CAPTA) provision at section 106(b)(2)(B)(xiii) requires that attorneys or court-appointed special advocates who are appointed as guardians ad litem (GAL) receive training appropriate to their role. What are the minimum conditions for this requirement?

Answer: The statute is clear that the State must have provisions and procedures in place to assure that every child who is the subject of an abuse or neglect proceeding is appointed a GAL, and that the GAL receive training appropriate to the role, including training that addresses early childhood, child, and adolescent development, prior to being appointed to represent the child in the proceeding regardless of whether the GAL is an attorney or court-appointed special advocate. The specifics of a State's plan for training its guardians ad litem may vary, depending upon individual State circumstances and needs. So long as the GAL is trained before s/he is appointed to represent a child, the CAPTA requirement will be met.

- **Source/Date:** 05/02/06; updated 12/9/11
- **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) - section 106(b)(2)(B)(ix)