

# **Notice of Procedures by Which an Individual May be Removed from the List of Those Deemed Eligible for Appointment as a Guardian Ad Litem or Attorney for the Minor Child in Family Matters**

**Effective September 3, 2019**

## **Standing Committee on Guardians Ad Litem and Attorneys for the Minor Child in Family Matters**

Pursuant to Practice Book Section 25-61A(b)(3), the Standing Committee on Guardians Ad Litem and Attorneys for the Minor Child in Family Matters establishes the following procedures by which an individual may be removed from the list of those deemed eligible for appointment as a guardian ad litem or attorney for the minor child in family matters.

### **Section 1 – Definitions**

“Committee” means the Standing Committee on Guardians Ad Litem and Attorneys for the Minor Child in Family Matters established pursuant to Practice Book Section 25-61A;

“Complainant” means a Judge, a Party, an attorney-at-law who has filed an appearance for a Party in a Relevant Proceeding, a person who has been appointed as a guardian ad litem or attorney for a minor child in the same Relevant Proceeding as the Respondent, or a licensed mental health professional directly involved in a Relevant Proceeding;

“Complaint” means a written document, submitted under penalty of false statement on a form approved by the Committee, alleging Grounds for Removal of a Respondent from the Eligible List;

“Eligible List” means the current list of individuals deemed eligible for appointment as a guardian ad litem or attorney for a minor child, which is approved pursuant to Practice Book Section 25-61A(b)(4);

“Full Committee” means a quorum of at least five of the nine members of the Committee;

“Grounds for Removal” means a finding that the Respondent presents an imminent risk of significant harm to the health, safety, or welfare of the public;

“Judge” means a judge or senior judge of the superior court, judge trial referee, family support magistrate, or family support referee;

“Party” means a plaintiff, defendant, applicant, respondent, petitioner, or intervening party in a Relevant Proceeding, or the State of Connecticut with respect to a Relevant Proceeding in which it is represented by the Attorney General;

“Period of Limitations” means within one year of the act or conduct complained of subject to, at the Committee’s discretion, a period of tolling of up to one year if an act of concealment or fraud is involved;

“Probable Cause Panel” means a panel of two or three members of the Committee, as the case may be, appointed by the Chair of the Committee in accordance with these rules to determine whether probable cause exists that there are Grounds for Removal of a Respondent named in a Complaint;

“Record” means the Complaint, the written response of the Respondent to the Complaint, if any, any investigatory file and copies of any documents, transcripts, or other written materials which were available to a Probable Cause Panel or to the Full Committee;

“Relevant Proceeding” means a family relations matter, as defined by CGS Sec. 46b-12(d), in which the Respondent has been appointed as a GAL/AMC pursuant to CGS Sec. 46b-54;

“Respondent” means an individual on the Eligible List as of the date of filing of a Complaint against him or her.

## **Section 2 – Filing a Complaint**

A. Any Complainant, as defined above, may file a Complaint with the Committee within the Period of Limitations. The required Complaint form can be obtained from any superior court clerk’s office, Court Services Center, or online from the Committee’s homepage on the Judicial Branch’s website, [https://www.jud.ct.gov/Committees/GAL\\_AMC/default.htm](https://www.jud.ct.gov/Committees/GAL_AMC/default.htm). There is no fee to file a Complaint.

B. Complaints may be submitted by electronic mail to *GalApprovedList@jud.ct.gov*. All Complaints submitted by electronic mail must be in .pdf format. A Complainant may also submit a Complaint by certified mail, return receipt requested. If a Complaint is submitted by certified mail, the Complainant must include an original and 3 copies. Complaints submitted by certified mail can be mailed to *GAL Approved List, P.O. Box 273, Glastonbury, CT 06033*.

C. A Complaint may not contain any unredacted personal identifying information as defined by Connecticut Practice Book Section 4-7.

D. Failure to submit a Complaint that complies with these rules will result in the Complaint being returned to the Complainant, who may then file a revised Complaint which complies with these rules. Complaints that are not filed on the proper form approved by the Committee, or that are not signed under penalty of false statement, will be returned to the Complainant by

staff to the Committee. Complaints returned to the Complainant for any other reason will be done at the direction of a Probable Cause Panel. If a revised Complaint, based on the original allegations, is filed within fifteen (15) days after the date of mailing or emailing the original Complaint back to the Complainant, then for purposes of the Period of Limitations it shall relate back to the date of filing of the original Complaint; otherwise it shall be treated as a newly filed Complaint.

E. Upon the successful filing of a Complaint, Committee staff will send a copy of the Complaint to the Respondent by electronic mail within two (2) business days.

F. The Respondent, at his or her option, may submit a written response to the Complaint by electronic mail to *GalApprovedList@jud.ct.gov*, or by certified mail, return receipt requested, to *GAL Approved List, P.O. Box 273, Glastonbury, CT 06033*. All responses submitted by electronic mail must be in .pdf format. If a response is submitted by certified mail, the Respondent must include an original and 4 copies. If any response is filed, Committee staff will send a copy of the response to the Complainant within two (2) business days. No further pleadings or replies will be allowed.

G. All responses must be filed within twenty-one (21) days of the filing of the Complaint. A Probable Cause Panel may allow additional time for the filing of a response.

H. A response may not contain any unredacted personal identifying information as defined by Connecticut Practice Book Section 4-7.

I. Neither the Complaint, nor any response to the Complaint, may contain or be accompanied by any supporting materials. Any supporting materials that are submitted with the Complaint, or any response to the Complaint, will be returned to the filer. However, any supporting materials and/or witnesses may be listed in the Complaint, or the response to the Complaint, along with an offer of proof briefly explaining their relevance. The Probable Cause Panel may request that the Complainant or the Respondent provide it with 5 copies of any listed supporting materials for its review and investigation. One copy of any supporting materials submitted to the Probable Cause Panel will be provided to the opposing party by Committee staff.

J. Notwithstanding any request by the Respondent to seek voluntary removal from the Eligible List, or any request by the Complainant to voluntarily withdraw their Complaint, the Probable Cause Panel or the Full Committee, as the case may be, may in its discretion continue to proceed under these Procedures as it deems appropriate.

### **Section 3 – Determination of Probable Cause**

A. Upon the proper filing of a Complaint in accordance with these Procedures, the Chair of the Committee will appoint a two (2) member Probable Cause Panel to review and investigate the Complaint. If the Complaint meets the threshold requirements of filing as specified in

Section 2, the Probable Cause Panel will determine if probable cause exists that the Respondent engaged in conduct that constitutes Grounds for Removal. At the conclusion of the review and investigation, the Probable Cause Panel will provide a written recommendation of its findings as to probable cause to the Full Committee.

B. The review and investigation conducted by the Probable Cause Panel shall be based solely on the Record. No probable cause hearings will be conducted. Discovery on the part of the Complainant or the Respondent shall not be permitted.

C. The Record is confidential, except to the Complainant, the Respondent, and their counsel, if any, unless and until probable cause is found by the Full Committee in accordance with paragraphs H and I of this Section.

D. The deliberations of the Probable Cause Panel are confidential.

E. At the conclusion of its review and investigation, the recommendation of the two (2) member Probable Cause Panel will be forwarded to the Full Committee. The recommendation made by the two (2) member Probable Cause Panel to the Full Committee must be unanimous.

F. In the event that a two (2) member Probable Cause Panel cannot agree upon a unanimous recommendation to the Full Committee, the Chair will appoint a third member to the panel. The third panel member shall be entitled to review all materials already collected by the Probable Cause Panel prior to the third member's appointment. Any additional review and investigation conducted subsequent to the appointment of the third panel member shall be done by the panel as a whole.

G. At the conclusion of its review and investigation, the recommendation of the majority of the Probable Cause Panel will be forwarded to the Full Committee. A dissenting member of the Probable Cause Panel may also submit a recommendation to the Full Committee. The recommendation of the Probable Cause Panel, and any dissenting recommendation, will not be provided to the Complainant, the Respondent, or their counsel.

H. Once the Probable Cause Panel has made a recommendation, the recommendation will be considered by the Full Committee at its next regularly scheduled meeting, provided that the Full Committee may in its discretion table a decision on the recommendation to a subsequent meeting. Consideration of the Probable Cause Panel's recommendation will take place in executive session that shall not be open to the public.

I. The Full Committee may vote to accept or reject the recommendation of the Probable Cause Panel based on a majority vote. If no probable cause is found by majority vote of the Full Committee, a written decision dismissing the Complaint will be filed. The decision is not subject to any further review. If the Full Committee makes a finding that there is probable cause, it will hear the merits of the Complaint according to the procedures in the following section. A copy

of the Full Committee's written decision will be provided to the Complainant, the Respondent, and their counsel, if any.

J. If the Full Committee makes a finding that there is probable cause, the Respondent may be subject to immediate temporary removal from the Eligible List pending the outcome of a hearing on the merits of the Complaint. The decision on whether the Respondent is to be removed from the Eligible List on a temporary basis shall be made based on a majority vote of the Full Committee following a finding of probable cause.

K. If the Full Committee decides to temporarily remove the Respondent from the Eligible List, notice of the Committee's action may be forwarded to either the Statewide Grievance Committee or the Department of Public Health, whichever is the Respondent's appropriate licensing authority. Notice of the Committee's action will also be forwarded to the chief administrative judge for the family division, and the presiding judge of family and chief clerk in each judicial district where the Respondent had been eligible to serve as a guardian ad litem or attorney for the minor child.

#### **Section 4 – Hearing on the Merits**

When the Full Committee makes a finding that probable cause exists that there are grounds for removal of a Respondent named in a Complaint, the Full Committee will conduct a hearing on the merits according to the following process:

A. Hearings on the merits shall be open to the public.

B. Notice of the date, time, and location of the hearing on the merits will be provided to the Complainant, Respondent, and their counsel, if any.

C. Discovery on the part of the Complainant or the Respondent shall not be permitted.

D. Hearings may only be recorded, if at all, by an official court reporter, official court recording monitor, or other person designated and arranged for by the Committee.

E. The Chair of the Committee, or the Chair's designee, who shall be a member of the Full Committee, will preside over the hearing.

F. The Complainant and the Respondent may be represented by an attorney, if they so choose. Attorneys who represent either the Complainant or the Respondent shall file a letter with the Committee as notice of their intent to appear on behalf of that party. The Committee is not under any obligation to provide an attorney to either party.

G. The burden of proof is on the Complainant to show that Grounds for Removal exist by a fair preponderance of the evidence.

H. The Complainant and the Respondent will each have an opportunity to present his or her case, should they so choose, including the testimony of any relevant witnesses, the introduction of any relevant evidence, and argument as to why Grounds for Removal do or do not exist by a fair preponderance of the evidence.

I. Evidentiary submissions after a finding of probable cause may only be made as exhibits offered at the hearing of the Full Committee. Any proposed evidence received by the Committee after a finding of probable cause will be returned to the party who submitted it and not be made part of the Record unless it is properly submitted at such hearing. At least seven days before the hearing, the Complainant and Respondent shall: (1) exchange copies of all exhibits each intends to offer at the hearing, and (2) file with the Full Committee and provide to the other party a list of witnesses (other than themselves) which each reasonably expects to call during the hearing. The requirements of this subsection may be waived in the discretion of the Full Committee for good cause.

J. Any evidence may be received, but the Full Committee shall exclude irrelevant, immaterial or unduly repetitious evidence. At its discretion, the Full Committee may exclude evidence not provided to the other party in advance in accord with subsection I of this Section, or witnesses not named in the lists provided in advance pursuant to said subsection. Exhibits of the Complainant shall be marked and listed numerically and of the Respondent alphabetically. Either party shall be entitled to request that an offered exhibit which is not admitted into evidence be marked for identification only.

K. Evidence may be received in the form of copies or excerpts if the original is not readily available. Upon reasonable and timely requests, the parties may be given an opportunity to compare the copy with the original.

L. Each party may conduct reasonable direct and cross-examinations of witnesses. All testimony shall be given under oath.

M. The members of the Full Committee may ask questions of the Complainant, Respondent, and any witnesses.

N. Each party shall be allowed a maximum of 10 minutes for argument immediately after both sides have presented their evidence. The Full Committee may, in its discretion, allow additional time to each party for argument.

O. After the hearing on the merits is concluded, the Full Committee will issue a final written decision with its findings and conclusions. The Full Committee's decision will be based upon a majority vote. A copy of the written decision will be provided to the Complainant, the Respondent, and their counsel, if any.

P. There shall be no post-hearing evidence. Neither the Complainant, the Respondent, nor their counsel may request reconsideration or judicial review once the Full Committee has issued its final written decision.

Q. If the final written decision of the Full Committee finds that Grounds for Removal of the Respondent from the Eligible List have not been proven by a fair preponderance of the evidence, any Respondent who was subject to immediate temporary removal from the Eligible List after a finding of probable cause shall be immediately reinstated to the Eligible List. Notice of reinstatement shall be forwarded to either the Statewide Grievance Committee or the Department of Public Health, whichever is the Respondent's appropriate licensing authority, to the chief administrative judge for the family division, and the presiding judge of family and chief clerk in each judicial district where the Respondent had been eligible to serve as a guardian ad litem or attorney for the minor child immediately prior to the temporary removal.

### **Section 5 – Remedies**

If the final written decision of the Full Committee finds by a fair preponderance of the evidence that Grounds for Removal from the Eligible List exist, the Full Committee may order remedies as follows. Any remedy is to be considered part of the Full Committee's final written decision and, therefore, is not subject to reconsideration or judicial review except as set forth herein:

A. The Full Committee may order that the Respondent be removed from the Eligible List on a temporary basis for a stated time period, after which the respondent will be reinstated automatically, subject to the Respondent's right to make a request for reinstatement prior to the end of the suspension period but no sooner than a date, if any, specified by the Full Committee. Any request for reinstatement prior to the end of the suspension period would require the approval of a majority of the Full Committee.

B. The Full Committee may order that the Respondent be removed from the Eligible List indefinitely, subject to the Respondent's right to make a request for reinstatement no sooner than a date, if any, specified by the Full Committee. Any request for reinstatement would require the approval of a majority of the Full Committee.

C. If the Full Committee decides to order any remedy in this section, notice of the Committee's action may be forwarded to either the Statewide Grievance Committee or the Department of Public Health, whichever is the Respondent's appropriate licensing authority. Notice of the Committee's action will also be forwarded to the chief administrative judge for the family division, and the presiding judge of family and chief clerk in each judicial district where the Respondent had been eligible to serve as a guardian ad litem or attorney for the minor child.

Rev. 7.25.19