

LAW GUARDIAN PROGRAM

APPELLATE DIVISION, THIRD DEPARTMENT

PROGRAM SUMMARY

PROGRAM OVERVIEW

The objective of the Law Guardian Program of the Appellate Division, Third Department, is to provide high-quality, cost-effective legal representation for each child appearing in the Family, Supreme, and Surrogate's Courts of the Department's 28 counties. Legal services are rendered by more than 600 attorneys in private practice who are designated by the Appellate Division as members of county law guardian panels and are then appointed by Family Court Judges and Supreme Court Justices to represent children on a case-by-case basis. In five counties representation is also provided by law guardian offices under agreements between the Appellate Division and qualified attorneys.

PROGRAM COMPONENTS

The Law Guardian Program has three components:

- The Law Guardian Office, the Program's administrative branch, which includes the director, assistant director, compensation claim processors and auditors, and secretarial staff.
- The Law Guardian Advisory Committee for the Third Department, the Program's oversight board, whose 15 members include judges, child welfare advocates, academics, and law guardians. The Advisory Committee meets quarterly, and has been instrumental in the development of Program policy on such matters as law guardian training and education, initial designation and re-certification of panel members, and law guardian office development and management.
- Three Law Guardian Liaison Committees made up of law guardian representatives from each county in the Department, who serve as a communications link between panel members and other Program components. Liaison Committees meet twice annually to discuss the operation of county panels and Law Guardian Program activities of interest to panel members, such as training and education.

PROGRAM FUNCTIONS

Regulation and administration of county law guardian panels—County law guardian panels are the primary means through which the Law Guardian Program provides representation. To be designated by the Appellate Division as a panel member, an attorney must meet introductory training and experience requirements, and be recommended by a Family Court Judge. Law guardians are also required to receive continuing education to remain panel members. The Law Guardian Program monitors compliance with these requirements.

The Appellate Division re-designates county law guardian panels annually based on the recommendations of Family Court Judges after evaluation of panel members according to five criteria: rapport with clients, case preparation, legal knowledge, vigor of advocacy and punctuality.

Professional staff of the Law Guardian Program regularly visit Family Courts in Third Department counties to meet with law guardians, judges and court staff to review the status of law guardian panel operations and the interaction between the courts and the Law Guardian Program.

Compensation claims—At the conclusion of each case, a law guardian submits a voucher claiming compensation and reimbursement of representation expenses to the trial court. Compensation vouchers are also submitted by providers of services required for representation, such as mental health evaluators. These vouchers are subsequently transmitted to the Law Guardian Program for review and payment.

Compensation and reimbursement policies and procedures are included in the Law Guardian Program's *Administrative Handbook*, which is revised and distributed annually to all Third Department law guardians and Family Court Judges and Clerks. The *Handbook* also contains statutes, rules, and procedures related to every aspect of Program operation.

Training and education—The Law Guardian Program produces a comprehensive series of continuing legal education seminars. These seminars are designed to meet the continuing legal education needs of law guardians at all experience levels, as well as to facilitate compliance with the rules of the Appellate Division regarding introductory training and continuing education of law guardians. Programming for each annual training cycle is developed with the assistance of an *ad hoc* Curriculum Development Committee of experts in children's law education. The Law Guardian Program was among the first organizations to be accredited as a provider of continuing legal education by the New York State Continuing Legal Education Board.

The major elements of the Law Guardian Program's training activities are:

- Fundamentals of Law Guardian Advocacy, a two-day conference conducted twice annually that offers prospective law guardians an introduction to the Law Guardian Program and to all types of proceedings in which law guardians represent children. The conference includes presentations on the child welfare system, basic trial skills, and child behavior and development. Attendees also receive a wide array of reference publications on children's law subjects.
- Law Guardian Update, a series of one-day seminars designed to permit experienced practitioners to stay current with the latest developments in children's law, held each year at three locations around the Third Department. Update seminars have typically include a presentation on an important non-legal subject related to the representation of children, such as psychological testing, and a review of recent legislation and case law developments. A central aim of the

Update seminars is to offer Third Department law guardians high-quality, live training by recognized experts within commuting distance of their homes at least once each year.

- Annual In-depth Conference presents a detailed examination of a topic critical to effective law guardian representation, featuring a nationally-recognized expert in the field. In-depth Conferences have dealt with areas such as forensics, permanency planning, child custody, and sexual abuse. Featured lecturers have included Judith Wallerstein on the consequences of divorce on children; Suzanne Sgroi on child sexual abuse accommodation syndrome; James Garbarino on youth violence; Stephen Ceci on child witnesses; and Gillien Todd on negotiation.
- Trial Skills Programs, including the Trial Advocacy Workshop, a participatory small group litigation skills seminar, and the Mock Trial Series, simulated trials conducted by experts who discuss their tactics as the proceeding progresses. Trials Skills Programs are held several times a year at various locations in the Department.

Law Guardian Program seminars, except the Trial Advocacy Workshop, are videotaped. Videotapes and seminar materials are available to law guardians at Supreme Court Law Libraries and selected Family Courts throughout the Third Department.

The Law Guardian Program also collaborates with the Office of Court Administration to produce an annual two-day seminar for legal aid society law guardian staff attorneys. In addition, the Law Guardian Program has co-sponsored seminars with organizations such as the Woman's Bar Association, Skidmore College, New York State CASA, and the Law Guardian Programs of the other Appellate Divisions.

Support services—The Law Guardian Program offers a number of support services to assist law guardians in providing high-quality representation, which include:

- Litigation Support Service, which provides case consultation and legal research assistance to panel members. Program attorneys help law guardians several hundred times each year by discussing legal problems and tactical considerations in individual cases. The purpose of the service is not to give advice or to answer specific legal questions definitively, but rather to provide collegial interchange that aids law guardians in thinking through the issues their cases present.
- Reference publications, including the quarterly *Law Guardian Reporter* (published in collaboration with the Law Guardian Programs of the other Judicial Departments), and booklets and pamphlets on all aspects of children's law.
- Law Guardian User Group, which gives panel members access to two valuable children's law periodicals via the Internet.

Law guardian offices—The Law Guardian Program has developed and oversees the operation of law guardian offices in five counties: Clinton, Franklin, Fulton, Otsego and Schuyler. These

offices are established under agreements between the Appellate Division and qualified attorneys. They are the first such offices developed in New York State.

The objective of the Law Guardian Program in creating a law guardian office is to establish a “mixed” representation system for the county that combines the skills of panel members with those of law guardian office staff attorneys. Law guardian offices are designed to supplement, rather than to supercede, county panels. In general, law guardian offices serve children in approximately one-half of a county’s law guardian caseload, in all types of Family Court proceedings.

In two other Third Department counties—Chemung and Tompkins—law guardian offices operate under agreements between the Office of Court Administration and legal aid societies.