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FOLLOW-UP REPORT



A Review of the South Carolina Guardian ad Litem Program

INTRODUCTION

This is a follow-up of the 2007 audit, A Review of the South Carolina Guardian ad Litem Program. The report included a review of the program’s background, funding, performance in fulfilling its mission, human resources management, and operations. We found that the program did not provide guardians to approximately half of the children in abuse and neglect proceedings. In addition, the program had neither stable nor sufficient funding. Program leadership did not adequately emphasize volunteer recruitment and instead allowed staff to serve as GALs. We also found that the program lacked adequate quality control processes over data quality and staff/volunteer adherence to program policies. In this follow-up review, we examined the implementation of report recommendations to the Guardian ad Litem (GAL) program, other agencies, and the General Assembly.

STATUS OF LAC RECOMMENDATIONS		
	MADE	IMPLEMENTED
Guardian ad Litem Program	15*	12
General Assembly	4*	1
Other Agencies	3	1

* We made two recommendations which required action by both the GAL program and the General Assembly, and are counted for both. The GAL program implemented them; however the General Assembly did not.

Since the 2007 report, a South Carolina Supreme Court administrative order has altered how the GAL program will operate. Effective July 1, 2010, family court judges will be prohibited from appointing attorneys as GALs. The S.C. GAL program or Richland County Court Appointed Special Advocates (CASA) will have to provide GALs for 100% of children in abuse and neglect proceedings. This will be a significant undertaking for a program that could not provide guardians in approximately 50% of cases in FY 05-06. In addition, the Governor’s Office has given the director of the GAL program the additional responsibility of directing the Office of Economic Opportunity. Also, effective June 3, 2010, the South Carolina Guardian ad Litem program will be known as the Cass Elias McCarter Guardian ad Litem Program in South Carolina.

RECOMMENDATIONS AND CURRENT STATUS

1. The General Assembly should discontinue funding the Guardian ad Litem Program by reducing interest payments due to taxpayers who are owed refunds and replace these funds with annual appropriations.

NOT IMPLEMENTED

The General Assembly did not substitute this funding stream with more stable funds.

2. The Guardian ad Litem Program should allocate recurring funding to at least one full-time staff position dedicated to recruiting volunteers. IMPLEMENTED

3. The Guardian ad Litem Program should track recruitment efforts and analyze the results. IMPLEMENTED

The GAL program staff now includes a public relations coordinator, whose responsibilities include designing recruitment efforts for the county offices. Also, there is a team of staff who have both public relations and training responsibilities. The coordinator, team, and county staff work together to analyze data related to volunteer recruitment and develop an annual public relations plan for each county.

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4. *The South Carolina Guardian ad Litem Program should phase out the use of staff as guardians by not allowing staff to take new cases. As workload decreases, staff in the caseworker position should be reassigned to other duties within the GAL program.* IMPLEMENTED
5. *The GAL program should continue to ask judges who assign all cases to program staff to cease this practice, and, when possible, staff should decline to take cases that will strain program resources.* IMPLEMENTED

According to an agency official, the program continues to stress the two case per staff person policy. Also the agency's monthly reports show that the percentage of staff cases is dropping, even though the program is accepting more cases. Two of the counties with the greatest percentage of staff cases in 2007 are now at or below the statewide average. However, the other two counties of concern still have a significant percentage of staff cases.

According to an agency official, program staff continued to discuss staff case assignments with judges. They developed a plan to allow a staff person initially assigned a case to be relieved and an attorney GAL appointed. However after July 1, 2010 attorneys will no longer be available to be appointed as GALs due to the S.C. Supreme Court order.

6. *In its annual accountability report, the South Carolina Guardian ad Litem Program should report data on key performance measures that provide information on the program's progress toward its goals.* PARTIALLY IMPLEMENTED

The program reports data on most key performance measures that provide information on the program's progress toward its goals. The program reported information on the percentage of children receiving guardians from the program and the number of volunteers trained. We suggested that the program also report the number of volunteers sworn in and retained, since these were a part of the program's key strategic goal. They do not report data on those measures.

7. *The Guardian ad Litem program should develop a comprehensive case priority policy.* IMPLEMENTED

Program staff have refined the case rejection policy, adding a priority ranking system to aid in decisions regarding when to turn back (reject) cases. During this process the program also reduced the number of reasons cases can be turned back. Though this policy may remain helpful in determining how to allocate program resources, its relevance to program operations will be reduced because of the Supreme Court's order that attorneys not be available to take cases that the program turns back.

8. *The Children's Law Center should continue providing continuing legal education for attorneys appointed as guardians ad litem in abuse and neglect cases.* IMPLEMENTED
9. *The South Carolina Supreme Court should amend its rules to require specific training in abuse and neglect cases for newly admitted attorneys.* NOT IMPLEMENTED
10. *For each appointment year, the Office of Court Administration, in conjunction with the S.C. Bar and the Children's Law Center, should develop a list of lawyers appropriately training in abuse and neglect law, and provide that list to the clerks of court.* NOT IMPLEMENTED

Since April 2007, approximately 450 attorneys have attended free continuing legal education programs provided by the Children's Law Center. These programs provide information on an attorney's responsibilities when serving in the following appointed roles — guardian ad litem for child, attorney for guardian ad litem, and attorney for parents. The programs are designed to meet the American Bar Association's training standards for appointed attorneys and provide a significant portion of each attorney's annual continuing legal education requirement. Though attorneys will no longer be

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available for appointment as GALs, the training will remain relevant to attorneys who volunteer with the GAL program or Richland County CASA and those appointed to serve as attorneys.

Though information on lawyers appropriately trained in abuse and neglect law is available from the Children's Law Center's training attendance lists, the Office of Court Administration has not compiled and provided a list to family courts for use when making appointments.

11. The General Assembly should amend S.C. Code §20-7-121 to give the GAL program the authority to remove guardians from cases. IMPLEMENTED

The General Assembly moved the Children's Code from Title 20 to Title 63 of the S.C. Code of Laws. S.C. Code §63-11-530(A)(2) provides the program with the ability to petition the court to relieve a volunteer guardian from appointment for the following reasons:

- Incapacity.
- Conflict of interest.
- Misconduct.
- Persistent neglect of duties.
- Incompetence.
- Knowing and willful violation of program policies and procedures that affect the health, safety, and welfare of the child.

12. When staff attrition occurs, the GAL program should shift positions to counties where the need for more supervisory resources is greatest. IMPLEMENTED

13. The GAL program should request and the General Assembly should authorize funding for personnel to adequately supervise the volunteer advocates for children in abuse and neglect cases.
PARTIALLY IMPLEMENTED

Since our 2007 report, the program has discontinued positions when the need for a particular function ceases to exist. When attrition occurs, the program uses its flexibility to adjust positions to align more with program needs.

The GAL program requested funding for additional supervisory staff; however, the General Assembly did not include additional FTEs or funding in the program's appropriation.

14. The GAL program should base its allocation of funds for compensating attorneys who represent volunteer guardians on workload in each county. IMPLEMENTED

Program staff use a formula that contains both current and future caseload projections to determine the number of hearings the program should base each attorney's compensation on. However, there are some counties with caseloads high enough to make compensating attorneys based on hearing volume unfeasible. According to an agency official, the program discussed the compensation formula with the attorneys and received a good response.

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15. *The GAL program should amend its file audits policy to require that audits be conducted at least twice a year.* IMPLEMENTED
16. *The GAL program should amend its file audits policy to require that audit reports be specific in identifying problems with the files and to require a written response from the county staff audited.* IMPLEMENTED
17. *The GAL program should fully implement its policy for file audits and ensure that all counties are audited as required.* IMPLEMENTED

The program's audit policy requires that each county's files be audited twice a year for 5% of open cases. File audits ensure that the proper documents are in the case files and that personnel files are complete. The supervisor submits a written audit report to the county which includes a corrective plan, and the county must respond detailing actions taken to correct any deficiencies.

18. *The GAL program should assign primary responsibility for data entry to specific employees in each county and implement consistent policies and procedures to ensure complete and accurate data collection.* NOT IMPLEMENTED

According to an agency official, the program's staff is not large enough to allow staff to specialize in this manner.

19. *The Guardian ad Litem Program should request and the General Assembly should grant FTE positions for the program's permanent employees.* PARTIALLY IMPLEMENTED

The General Assembly did not grant the program's request to convert time-limited positions to FTEs. According to an agency official, the conversion would not be budget neutral, as the program would have to pay out leave time to the employees in these positions.

20. *The Guardian ad Litem Program should use agency mail services and discontinue its current process of having program staff deliver office supplies.* PARTIALLY IMPLEMENTED

According to an agency official, the program does not use agency mail services to distribute supplies, because some of the county offices are not near a drop-off site. Many of the office supplies are now delivered directly from the vendor to the county office. The state office also uses the regional supervisors and commercial courier services to deliver supplies that cannot go directly to the county office.

This follow-up was limited to the issues in the 2007 audit for which we made recommendations. We received information from relevant agencies regarding the implementation of the recommendations in the audit. We reviewed this and other information, and verified evidence supporting the agency information as appropriate.

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Legislative Audit Council
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