

**Salt River Pima-Maricopa  
Indian Community**  
10,005 East Osborn Road  
Scottsdale, Arizona 85256

**ORDINANCE NUMBER: SRO- -10**

**An Ordinance to amend Chapter 11 of the Salt River Pima-Maricopa Indian Community Code of Ordinances by amending certain sections regarding criteria and procedures for appointing and retaining Guardian ad Litem and for specifying their duties and responsibilities.**

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**BE IT ENACTED:**

Any case filed prior to the enactment of this ordinance is subject to a GAL appointment by requested motion and the request shall be granted.

**BE IT ENACTED:**

The Salt River Pima-Maricopa Indian Community Code of Ordinances is hereby amended to read as follows:

**Section 11-1 Purpose; definitions.**

*Guardian ad Litem means an officer of the court, either an Attorney or an Advocate, appointed to protect and advocate for the best interests of the individual they are appointed to represent.*

**Sec. 11-31. Guardian ad Litem.**

(a) Purpose. To ensure that an individual's best interests are protected by appointing a Guardian ad Litem in every case, and that the appointed Guardian ad Litem is performing their role appropriately and adequately to protect the individual's best interests.

(b) The Guardian ad Litem Division is hereby created and shall be established within the Legal Services Office to provide services to abused, neglected, or dependent children involved in judicial proceedings and to assure that all participants in these proceedings are adequately trained to carry out their responsibilities. The Legal Services Office shall adopt rules and regulations necessary and appropriate for the administration of the program.

(c) Scope of Rules. Notwithstanding any other provision, these standards shall apply to all attorneys and/or advocates representing individuals as Guardian ad Litem in the following, but not limited to, dependency, guardianship, termination of parental rights, adoption proceedings, and/or guardianship. Attorneys and/or advocates shall not be appointed as both the individual's legal representative and Guardian ad Litem.

(d) Qualifications. A Guardian ad Litem appointed by the Court in dependency, guardianship, and involuntary commitment, termination of parental rights or adoption proceedings must meet the minimum qualifications set forth in these rules. A Guardian ad Litem shall meet all of the following: be of high moral character and integrity; shall not be a close relative or have any relationship to the individual or have any other special interest in the case that would prevent the Guardian from objectively representing the best interests of the individual.

(1) A criminal background report shall be updated every three (3) years. In addition to section 11-91, the background check shall include, but is not limited to, the following information:

- a. A criminal history. "Criminal history" means a defendant's prior arrests, convictions and juvenile adjudications in any jurisdiction. The history shall include, where known, for each conviction (i) whether the individual has been placed on probation and the length and terms thereof; and (ii) whether the individual has been incarcerated and the length of incarceration.
- b. The names of any counties in which the person was removed from a Guardian ad Litem registry pursuant to a grievance action, and the name of the Court and the number of any case in which the Court has removed the person for cause.

(2) Should the background check indicate the individual he/she has been found guilty of or entered a plea of nolo contendere or guilty to any offense under Federal, state, or tribal law involving crimes of violence, sexual assault, sexual molestation, sexual exploitation, sexual contact or prostitution, or crimes against persons, the applicant's application will be denied and any active Guardian ad Litem will be removed from any cases appointed to and denied any further appointments. Any information that illustrates a person lacks high moral character or integrity can be used as a basis for an application's denial or for the removal of an active Guardian ad Litem.

(3) Training: A Guardian ad Litem shall be required to participate in either:

- a. Eight (8) hours of training in juvenile law. The training shall include applicable ordinances and rules of court. Training in related practice areas such as child development, child abuse and neglect, substance abuse, domestic violence, trial advocacy, family reunification, and/or preservation and reasonable efforts is recommended; or
- b. At least six (6) months of experience in related practice area in which the attorney and/or advocate has demonstrated competence in the representation of his or her client in another jurisdiction.

(e) Following certification, a Guardian ad Litem shall participate, at a minimum, in four (4) hours of continuing legal education per year, which is specific to the area of juvenile law.

(f) Caseloads. Guardian ad Litem shall not accept case appointments beyond a manageable caseload.

(g) Appointment of Guardian ad Litem:

(1) The Court shall appoint a Guardian ad Litem to represent a minor child's best interests in any dependency proceedings.

(2) The Court shall issue an appointment order to the Legal Services Office. Any Guardian ad Litem designated by Legal Services shall be certified as described herein.

(3) A Guardian ad Litem may represent more than one child in a family group unless and until a potential or actual conflict arises between the children.

(4) Timing of Appointments. The Guardian ad Litem shall be appointed immediately after the earliest of:

- a. The filing of a petition alleging child abuse and neglect.
- b. The Court shall appoint a Guardian ad Litem prior to the next scheduled hearing if a Guardian ad Litem has not been appointed previously pursuant to sections described above.

(5) Notice of Court proceedings. The Court shall notify the Guardian ad Litem of any Court proceeding concurrently when all other parties have been notified or at least 5 days prior to the scheduled hearing date. Should the Court fail to give proper notice to the Guardian ad Litem, the Court shall continue the scheduled hearing to allow for the Guardian ad Litem to prepare.

(6) Appointment Orders. The Court shall make written appointment orders; an accompanying, separate order shall authorize the Guardian ad Litem and/or their designee access to the entire court file and copies of the entire court file, which relates to the individual's case that the Guardian ad Litem is appointed to; and all otherwise privileged or confidential information about the individual and to all otherwise privileged or confidential information about the individual, without the necessity of any further order or release, including, but not limited to, social services, drug and alcohol treatment, medical, evaluation, law enforcement, school, probate and Court records, records of trust and accounts of which the individual is a beneficiary, and other records relevant to the case; except that health and mental health records that would otherwise be privileged or confidential under state, federal or tribal law shall be released to the Guardian ad Litem only in accordance with those laws.

(h) General authority and duties:

(1) Duties. Guardian ad Litem shall:

- a. Obtain, without cost all relevant information from the custodian unless it is otherwise privilege;
- b. Participate in depositions, negotiations, discovery, pretrial conferences, and hearings;
- c. Inform other parties and their representatives that he or she is representing the individual's best interests and expects reasonable notification prior to changes of placement, changes in visitation schedules, case conferences, and other changes of circumstances directly affecting the individual and the individual's family;
- d. Identify appropriate family and professional resources for the individual;
- e. Conduct an independent investigation to determine the facts relevant to the situation of the individual, which may include the individual's parent, legal guardian, or other household or family members;
- f. Advocate for the best interests of the individual by participating in appropriate aspects of the case and advocating for appropriate community services when necessary and available;
- g. Maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the individual;
- h. Advocate the best interests of the individual throughout the judicial proceeding;

- i. Present written reports, as required, on the best interests of the individual that include conclusions and recommendations, and the facts upon which they are based;
- j. Review all written orders to ensure that they conform to the court's verbal orders and ordinance required findings and notices;
- k. Monitor the implementation of the court's orders and communicate noncompliance to the responsible agency and, if necessary, the court; and
- l. If appropriate and the appeal has merit, take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the individual during the pendency of the appeal.

(i) Actions to be taken:

(1) Meet With Individual. Establishing and maintaining a relationship with the individual is the foundation of representation. Therefore, irrespective of the individual's age, the Guardian ad Litem may have a meaningful visit with the individual prior to each substantive Court hearing and when apprised of emergencies or significant events impacting on the individual. The Guardian ad Litem may use trained and qualified staff to assist in conducting visits with the individual.

(2) Investigate. The Guardian ad Litem shall conduct thorough, continuing, and independent investigations and discovery which may include, but not be limited to:

- a. Reviewing the individual's, siblings' parent's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case. Should the Guardian ad Litem need to review any other records related to the case not mentioned above, the Guardian ad Litem may seek the necessary authorization from the Court;
- b. Reviewing the Court files of the individual and siblings (where applicable and permitted under (g)(6) and (i)(2)(a) above), case-related records of the social service agency and other service providers;
- c. Contacting attorneys and/or advocates for other parties, if represented, for background information, if applicable;
- d. Contacting and meeting with the parents/legal guardians /caretakers of the individual, with permission of their attorney and/or advocate, if applicable;
- e. Requesting necessary authorizations for the release of information from the appropriate party, if the authorization is not outlined in the Court's Order or if it is not included in the Court's appointment order;

- f. Interviewing parties involved with the individual, including school personnel, individual's welfare case workers, foster parents and other caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, law enforcement officers, and other potential witnesses;
- g. Reviewing the relevant evidence personally, rather than relying on other parties' or counsel's descriptions and characterizations;
- h. Reviewing relevant photographs, video or audio tapes and other evidence;
- i. Attending treatment, placement, administrative hearings, other proceedings involving legal issues, and school case conferences or staff conferences concerning the individual at the Guardian ad Litem's discretion; and
- j. Stay apprised of any additional Court proceedings affecting the individual, the parties and other household members.

(3) File Pleadings. The Guardian ad Litem may file petitions, motions, responses or objections as necessary to represent the individual's best interests. Relief requested may include, but is not limited to:

- a. A mental or physical examination of a party or the individual;
- b. A parenting, custody or visitation evaluation;
- c. An increase, decrease, or termination of contact or visitation;
- d. An order restraining or enjoining a change of placement;
- e. Contempt for non-compliance with a Court order;
- f. Termination of the parent-child relationship;
- g. Guardianship;
- h. Conservatorship;
- i. Adoption;
- j. Child support;
- k. A protective order concerning the individual's privileged communications or tangible or intangible property;
- l. Services for individual or family;
- m. Dismissal of petitions or motions;
- n. Return to home or the continued out of home placement; and
- o. Determination of paternity.

(4) Request Services. The Guardian ad Litem may petition the Court for appropriate services to access entitlements, to protect the individual's interests and to implement a service plan as necessary to represent the individual. These services may include, but not be limited to:

- a. Family preservation-related prevention or reunification services;
- b. Sibling and family visitation;
- c. Child support;
- d. Domestic violence prevention, intervention, and treatment;
- e. Medical, dental and mental health care;
- f. Drug and alcohol treatment, and counseling;
- g. Parenting education;
- h. Semi-independent and independent living services;
- i. Long-term foster care;
- j. Termination of parental rights action;
- k. Adoption services;
- l. Education;
- m. Recreational or social services;
- n. Housing; and
- o. Transitional services.

(5) Individual with Special Needs. The Guardian ad Litem may petition the Court to ensure that an individual with special needs receives appropriate services to address the physical, mental, or developmental disabilities as necessary to represent the individual. These services may include, but not be limited to:

- a. Special education and related services;
- b. Supplemental security income (SSI) to help support needed services;
- c. Therapeutic foster or group home care; and
- d. Residential/in-patient and out-patient psychiatric treatment.

(6) Negotiate Settlements. The Guardian ad Litem shall participate in settlement negotiations to seek expeditious resolution of the case. The Guardian ad Litem shall use appropriate mediation resources, minimize the use of continuances, and not otherwise unduly delay the proceedings.

(7) Court Appearances. The Guardian ad Litem shall attend all hearings and participate in all telephone or other conferences with the Court unless a particular hearing involves only issues completely unrelated to the individual.

(8) Motions and Objections. The Guardian ad Litem shall make appropriate motions, including motions *in limine* and evidentiary objections as necessary to represent the individual's best interests at trial or during other hearings. If necessary, the Guardian ad Litem shall file briefs in support of evidentiary issues. Further, during all hearings, the Guardian ad Litem shall preserve legal issues for appeal, as appropriate.

(9) Presentation of Evidence. The Guardian ad Litem shall present and cross examine witnesses, offer exhibits, and provide independent evidence as necessary. The Guardian ad Litem shall provide the court with recommendations based upon their independent investigation and knowledge of the case. The Guardian ad Litem shall not be a witness in any case to which they are appointed.

(10) Determination of Individual's testimony. The Guardian ad Litem shall make recommendations the appropriateness or ability of individual to be considered a witness and to provide sworn testimony. The decision shall include consideration of the individual's need or desire to testify, any repercussions of testifying, the necessity of the individual's direct testimony, the availability of other evidence or hearsay exceptions which may substitute for direct testimony by the individual, and the individual's developmental ability to provide direct testimony and to withstand possible cross-examination. In criminal cases where a party seeks to introduce testimonial hearsay statements of the individual, the Guardian ad Litem must also consider that such statements are inadmissible, under the Confrontation Clause, unless the individual is available at trial, or if unavailable, the individual was subjected to prior cross-examination. The Guardian ad Litem may rely upon advice or guidance from professionals familiar with the individual.

(11) Obligations after Termination of Dependency case. The Guardian ad Litem shall seek to ensure continued representation of the individual at all further hearings, including at administrative or judicial actions that result in changes to the individual's placement or services, so long as the Court maintains its jurisdiction.

(Ord. No. SRO-210-96, § 1, 11-15-95)

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C\_E\_R\_T\_I\_F\_C\_A\_T\_I\_O\_N

This Ordinance is hereby enacted pursuant to the authority contained in Article VII, Sec. 1(k) of the Constitution of the Salt River Pima-Maricopa Indian Community ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, and amended by the Tribe, February 27, 1996, and approved by the Secretary April 23, 1996, the foregoing Ordinance was adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010, in a duly called meeting held by the Community Council in \_\_\_\_\_, Arizona at which a quorum of \_\_\_\_\_ members were present by a vote of \_\_\_\_\_ for; \_\_\_\_\_ opposed, \_\_\_\_\_ abstentions, and \_\_\_\_\_ excused.

**SALT RIVER PIMA-MARICOPA  
INDIAN COMMUNITY COUNCIL**

\_\_\_\_\_  
Diane Enos, President

ATTEST:

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Erica Harvier, Council Secretary