

Rule 1-152. Mandatory and discretionary appointment of guardian ad litem; powers and duties of the guardian ad litem; payment.

A. **Mandatory appointment.** The court shall appoint a guardian ad litem when the following are met:

(1) a parent of the child is participating in the proceedings and objects to the petition to appoint a kinship guardian; or

(2) a parent of the child is petitioning for revocation of an established guardianship created under the Kinship Guardianship Act and the guardian objects to the revocation.

B. **Discretionary appointment.** The court may appoint a guardian ad litem for the child on the motion of a party or solely in the court's discretion.

C. **Powers and duties.** The order of appointment shall be substantially in the form adopted by the Supreme Court. *See* Form 4A-515 NMRA. A guardian ad litem appointed by the court in these proceedings shall

(1) in connection with a petition to establish a kinship guardianship

(a) make a diligent investigation of the circumstances surrounding the petition, including visiting the child in the home, interviewing the person proposed as guardian, and interviewing the parents of the child, if available;

(b) report to the court about the best interests of the child and the child's position on the requested relief; and

(c) recommend an appropriate transition plan if the child is residing with the petitioner and the petition for kinship guardianship is not granted.

(2) in connection with a petition or motion for revocation of a guardianship

DOMESTIC RELATIONS
RULE 1-152
[NEW MATERIAL]

Supreme Court Approved
November 1, 2022

(a) report to the court about the best interests of the child and the child's position on the requested relief; and

(b) recommend an appropriate transition plan if the guardianship is revoked.

D. Payment. The court may order all or some of the parties to pay a reasonable fee for a guardian ad litem. If all of the parties are indigent, the court may award a reasonable fee to the guardian ad litem to be paid out of funds of the court.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after December 31, 2022.]

Committee commentary. — *See* Administrative Office of the Courts Court-Appointed Attorneys Payments Guidelines.

[Adopted by Supreme Court Order No. 22-8300-020, effective for all cases pending or filed on or after December 31, 2022.]