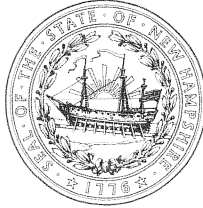


**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

**PERFORMANCE AUDIT
JANUARY 2012**



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To The Fiscal Committee Of The General Court:

We conducted an audit of the Guardian ad Litem Board (Board) to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The purpose of the audit was to determine if the Board efficiently and effectively fulfilled its statutory responsibilities to oversee the credentialing and activities, and discipline of Board-certified guardians ad litem and court appointed special advocates. The audit period is State fiscal years 2010 and 2011.

This report is the result of our evaluation of the information noted above and is intended solely for the information of the Board and the Fiscal Committee of the General Court. This restriction is not intended to limit the distribution of this report, which upon acceptance by the Fiscal Committee is a matter of public record.

Office of Legislative Budget Assistant
Office Of Legislative Budget Assistant

January 2012

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**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

TABLE OF CONTENTS

	<u>PAGE</u>
TRANSMITTAL LETTER	i
EXECUTIVE SUMMARY	1
RECOMMENDATION SUMMARY	3
BACKGROUND	5
ADMINISTRATION AND STRUCTURE	11
Observation No. 1: Relocate The Board Within The Joint Board Of Licensure And Certification	11
Observation No. 2: Host Training To Help Cover Board Costs.....	13
Observation No. 3: Consider Altering Board Composition	16
Observation No. 4: Improve Board Oversight Of CASA Of NH.....	19
Observation No. 5: Comply With State Contracting Requirements.....	21
Observation No. 6: Improve Check Handling Controls	22
Observation No. 7: Implement A Records Management Policy	23
Observation No. 8: Ensure Continuity Of Operations.....	24
Observation No. 9: Ensure All Members Comply With Statement Of Financial Interests Filing Requirements And Meetings Conform To Statute	25
Observation No. 10: Consistently Comply With Right To Know Requirements For Nonpublic Meetings.....	26
Observation No. 11: Ensure Subcommittees Conform To Statute.....	27
Observation No. 12: Comply With Statutory Requirements For Cost And Fee Structure Recommendations.....	28
OPERATIONS	31
Observation No. 13: Ensure Complaints Are Processed According To Requirements	31
Observation No. 14: Ensure Allegations Of Misconduct And Complaints Are Processed Timely	33
Observation No. 15: Reevaluate The Complaint Filing Fee.....	34
Observation No. 16: Consider Disciplining GALs For Late Court Reports.....	35
Observation No. 17: Ensure Application Processing Is Consistent And Complies With Rules	36
Observation No. 18: Simplify The Renewal And Recertification Processes.....	38
OTHER ISSUES AND CONCERNS	41
 APPENDICES	
Appendix A: Scope, Objectives, And Methodology	A-1

Appendix B: Guardians Ad Litem Survey ResultsB-1
Appendix C: Judges And Marital Masters Survey Results.....C-1

LIST OF TABLES

Table 1: GALs Subject To Board’s Oversight, Appointed For Cases Closed During SFYs 2010 And 20116
Table 2: Certification Status Of Each GAL Appointment On Cases Closed During SFYs 2010 And 2011.....7
Table 3: Board Revenue And Expenditures SFYs 2010 and 20118

ABBREVIATIONS

Board	Guardian Ad Litem Board
CASA	Court Appointed Special Advocate
CASA of NH	Court Appointed Special Advocates Of New Hampshire, Inc.
CE	Continuing Education
DAS	Department Of Administrative Services
GAL	Guardian Ad Litem
G&C	Governor And Executive Council
Joint Board	Joint Board Of Licensure And Certification
LBA	Office Of Legislative Budget Assistant
LPAOC	Legislative Performance Audit And Oversight Committee
MOU	Memorandum Of Understanding
NHTI	NHTI, Concord's Community College
RSA	Revised Statutes Annotated
SFY	State Fiscal Year

**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

EXECUTIVE SUMMARY

Our audit sought to answer the following question: did the Guardian ad Litem Board (Board) efficiently and effectively fulfill its statutory responsibilities to oversee the credentialing and activities, and discipline of Board-certified guardians ad litem (GAL) and court appointed special advocates (CASA)?

We identified weaknesses in the Board's structure, administration, and operations, which resulted in its inability to operate efficiently and effectively. A lack of consistent administrative support and knowledge of basic State requirements contributed to many of the Board's administrative and operational weaknesses.

We found numerous examples of noncompliance with its own Rules and inconsistent Board actions in handling complaints against Board-certified GALs. Discipline of GALs was a significant Board responsibility, yet Board timelines for complaint processing were frequently not met. Of the 37 complaints closed during the audit period, ten took approximately one year for the Board to adjudicate, and four took over two years.

The current system of regulation, management, and controls over the three types of GALs (Board-certified, CASA, and non-certified) used in State courts is fragmented. GAL oversight is shared between the Board, the courts, and the Court Appointed Special Advocates of New Hampshire, Inc. (CASA of NH) which is under contract with the State Judicial Council exclusively for abuse and neglect cases. The Board has some oversight of Board-certified GALs and certain aspects of CASAs, but it has no oversight responsibilities over non-certified GALs appointed by the courts.

We found 90 percent of GAL appointments to court cases (5,281 of 5,881) were made with 170 certified GALs and the CASA of NH. However, 10 percent of all court appointments (600 of 5,881) were made with 125 non-certified GALs. CASA of NH supervises the work of its volunteer CASAs, but neither the Board nor the courts have a similar supervisory structure in place for overseeing or evaluating Board-certified and non-certified GALs, respectively.

There are no national models for the qualification, training, and oversight of GALs. However, the Board consisted of nine unpaid members with a part-time secretary for support and was uniquely structured and insufficiently supported when compared to most similar State entities regulating professions, occupations, and trades. The statutory makeup of the Board and how members were appointed was also atypical.

While judges and marital masters generally reported the creation of the Board improved GAL services, GALs themselves were less certain of the benefits of the Board. The recommendations contained in this report are intended to increase the efficiency and effectiveness of the Board and improve the services provided by the Board to the public and all guardians ad litem in the State.

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**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action Required?	Recommendation	Agency Response
1	11	Yes	Consider amending statute to include the Guardian ad Litem Board (Board) within the Joint Board of Licensure and Certification.	<u>GAL Board</u> Do Not Concur <u>Joint Board</u> Concur In Part
2	13	Yes	Consider hosting training and continuing education courses. Consider amending statute to require the Board collect fees to recover costs of Board operations.	Do Not Concur
3	16	Yes	Consider subjecting the Board to general requirements imposed on other similar entities and Board membership requirements, and if certification should be required to serve as a GAL in the State.	Concur In Part
4	19	No	Promulgate Administrative Rules to affect the substance of the current memorandum of understanding and improve the oversight of the Court Appointed Special Advocate of NH, Inc.	Concur In Part
5	21	No	Seek Governor and Executive Council (G&C) approval for personal service contracts exceeding \$2,500; use competitive procurement practices; use documented agreements; train Board members and staff on State procurement requirements; and ensure Board members are not paid for services.	Concur
6	22	No	Comply with State law and Treasury policy, develop check handling procedures, and train Board staff on check handling procedures.	Concur
7	23	No	Develop a records management policy.	Concur
8	24	No	Develop and maintain policies and procedures for all significant administrative activities.	Concur

Recommendation Summary

Observation Number	Page	Legislative Action Required?	Recommendation	Agency Response
9	25	No	Develop and implement written policies and procedures to ensure full compliance with statute and ensure Board members who do not comply are prevented from participating in Board business.	Concur
10	26	No	Comply with right to know requirements regarding nonpublic sessions and develop policies for redacting confidential information from nonpublic minutes.	Concur
11	27	No	Promulgate Rules detailing subcommittees, comply with right to know requirements, and ensure all final decisions are handled by the Board, not a subcommittee.	Concur
12	28	Yes	Comply with statutory requirements to investigate the cost and fee structure established by Supreme Court Rules or seek a statutory change through the Legislature.	Concur
13	31	No	Process complaints consistent with statute, Rule, and Attorney General advice. Continue to develop the complaint database.	Concur
14	33	Yes	Consider requiring the Board to annually report its activities to the G&C, the Chief Justice of the Supreme Court, and the public. Comply with Rules, ensuring decisions are processed timely and consistently and continue to develop the complaint database.	Concur
15	34	No	Apply the complaint filing fee consistently and reevaluate if needed.	Concur
16	35	No	Conform to statute and Administrative Rules requiring it investigate and discipline Board-certified GALs and CASAs for late reports to the Court.	Concur
17	36	No	Follow Rules when processing applications and clarify ambiguities in Rules.	Concur
18	38	No	Simplify renewal and recertification processes.	Concur

**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

BACKGROUND

There is considerable diversity of guardian ad litem (GAL) programs and services throughout the country. As a result of this diversity, there is no single best practice or standard service model. GAL services may be centralized or decentralized; overseen by the state, county, or district; or provided through non-profits, volunteer programs, independent contractors, or state employees. Depending on the state, a GAL may be certified, require licensure in another profession, or have limited to no required qualifications. GALs may represent the interest of a child, incapacitated adult, or property in court. Federal law requires appointment of a GAL in all cases of abuse or neglect resulting in a judicial hearing in order to be eligible for federal funding.

In New Hampshire, responsibility for overseeing GALs and their services is divided among the Board, the courts, and the Court Appointed Special Advocates Of New Hampshire, Inc. (CASA of NH) contracted through the State Judicial Council. As a result, regulation of Board-certified GALs, court appointed special advocates (CASA), and non-certified GALs is fragmented. As of June 2011, there were 156 Board-certified GALs, the CASA of NH reported 368 active CASAs, and there were no data readily available on the current use of non-certified GALs.

The Courts

In New Hampshire, GALs are typically appointed by a court to represent the best interests of a child in divorce proceedings, termination of parental rights, guardianships and in cases of abuse or neglect.¹ As officers of the court, GALs serve as the “eyes and ears of the court,” providing an independent evaluation and making impartial recommendations to the court. Judges and marital masters² appoint the GALs to cases, determine the scope of the GALs’ work, set deadlines, and approve GAL fees. A judge or marital master can remove a GAL from a case, hold them in contempt of court, or impose a fine against the GAL. Judges and marital masters review GAL reports as one piece of evidence in a case and must decide how much, if at all, GAL recommendations are incorporated into their rulings.

Supreme Court rule requires judges and marital masters appoint Board-certified GALs (and CASAs) unless there are “special circumstances as determined by the court.” There are at least 17 statutes that permit or require court appointment of GALs. The Supreme Court has authority to regulate GALs. However, the Supreme Court has adopted the Board’s Administrative Rules as its own.

The Judicial Council

The Judicial Council is responsible for the CASA of NH contract, which provides volunteers to serve as GALs for abuse and neglect cases. CASA of NH trains and supervises the work of its CASAs, but neither the courts nor the Board have a similar supervisory structure in place for overseeing or evaluating Board-certified and non-certified GALs. Additionally, statute makes

¹ A court may also appoint a GAL to represent an incapacitated adult or the interests of property, such as a piece of land or an object.

² Technically, all marital masters’ orders must also be approved by a judge.

CASA of NH accountable to the Board for training and actions of its CASAs. The Board and CASA of NH entered into a memorandum of understanding to formalize their relationship.

During the audit period, when the court determined a party or parties were indigent, Board-certified and non-certified GALs were paid by the Judicial Council from a dedicated fund supported by court fees and the General Fund. Starting in State fiscal year (SFY) 2012, the State no longer pays for GAL services in marital cases in which the parties are found indigent.

Appointments

According to unaudited court data, there were 5,881 GAL appointments in 5,308 separate cases closed during the audit period. We determined 492 of the 5,308 cases (nine percent) had more than one GAL appointed, with a maximum of five. Table 1 shows 5,281 of all appointments (90 percent) come under the Board’s oversight (CASA of NH, Certified GALs). The other 600 appointments (10 percent) were non-certified GALs, who can not be disciplined by the Board and are the sole responsibility of the courts. Of the 281 appointed GALs, excluding CASA volunteers, 125 GALs were non-certified.

Table 1

**GALs Subject To Board’s Oversight,
Appointed For Cases Closed During SFYs 2010 And 2011**

GAL Type	Number Of GALs	Number Of Appointments		Appointments With GALs Subject To Board Oversight	Appointments With GALs Not Subject To Board Oversight
CASA of NH ^a	--	2,158		5,281 (90%)	0
Certified	156	3,000			
Expired ^b	14	Certified	123	0	600 (10%)
		Expired	108		
Non-certified	111	492			
Total	281	5,881			

Note: ^a While CASA volunteers are not “Board-certified” GALs, they are subject to the Board’s oversight.

^b We identified previously certified GALs who were appointed to cases both before and after their certification expired.

Source: LBA analysis of Administrative Office of the Courts and Board data.

Based on the court data, individual GALs were appointed to between one and 114 cases closed during SFY 2010 and 2011. Out of the 281 GALs (excluding CASAs) we found:

- three (one percent) were on 100 or more cases,

- 17 (6 percent) were on 50 or more cases,
- 162 (58 percent) were on five or less cases, and
- 89 (32 percent) were on one case.

Two (one percent of total GALs) of the top 50 most appointed GALs were non-certified, and nine (three percent of the total GALs) of the top 100 GALs were non-certified. While non-certified GALs did not typically have many cases, the GAL with the most number of cases (114) was a non-certified GAL. As shown in Table 2, the use of certified GALs varies by case type. Family-related cases typically had high percentages of Board-certified GAL and CASA appointments.

Table 2

**Certification Status Of Each GAL Appointment
On Cases Closed During SFYs 2010 And 2011**

Case Type	Board-Certified And CASAs		Non-Certified GALs		Total Number Of Cases With A GAL
	Number Of Cases	Percent Of Total Case Type	Number Of Cases	Percent Of Total Case Type	
Abuse and Neglect	1,898	94	112	6	2,010
Marital/Parental Rights	1,749	92	151	8	1,900
Adoption	224	91	22	9	246
Termination of Parental Rights	783	89	92	11	875
Guardianship, Minor	289	88	40	12	329
Criminal	123	78	35	22	158
Guardianship, Adult	18	64	10	36	28
Other	197	59	138	41	335
Total	5,281	90	600	10	5,881

Source: LBA analysis of Administrative Office of the Courts and Board data.

Guardian Ad Litem Board

In 1999, the Legislature created a committee to examine issues surrounding the appointment of GALs by the courts, including selection procedures, standards and practices, and performance monitoring. In 2000, the Legislature created the Board, administratively attached to the Department of Administrative Services, to oversee credentialing, activities, and discipline of GALs. The statute was revised in 2004 and 2006 to further clarify the duties and authority of the Board. In 2006, the Board's responsibilities were limited to only those GALs it certifies, instead of any GAL appointed in State. The Board is not required to supervise the work of GALs. The Board adopted Administrative Rules for certification requirements in January 2005 and

subsequently adopted complaint management, ethics and standards of practice, and renewal Rules in September 2007.

The Board expended \$20,548 in SFY 2010 and \$27,475 in SFY 2011 with revenues of \$5,152 and \$7,531, respectively, as shown in Table 3. The Board had a part-time secretary and a single desktop computer. It relied on the Department of Information Technology for all of its computer support, such as its website. The secretary developed a Microsoft Access database to manage GAL applications, recertifications, and a listing of all current and former Board-certified GALs in January 2011.

Table 3

**Board Revenue And Expenditures
SFYs 2010 And 2011**

	2010	2011	Total
Revenue			
Total Agency Income	\$5,152	\$7,531	\$12,683
Expenditures			
Current Expenses	2,446	3,367	5,813
Equipment	140	482	622
Consultants	4,876	8,063	12,939
Personal Services	12,156	14,405	26,561
Benefits	930	1,102	2,032
In-State Travel		56	56
Total Expenditures	20,548	27,475	48,023
Difference	\$15,396	\$19,944	\$35,340

Source: LBA analysis of Statements of Appropriation from the State's accounting system, NH First.

Credentialing

The Board reviewed and reached a decision on 48 initial applications for certification, 61 renewal applications, and 20 additional initial applications for recertification submitted by those who had been previously certified. Of these 129 initial and renewal applications received by the Board in SFYs 2010 and 2011, 95 percent of the GALs held a bachelor degree or higher, with 60 percent having a juris doctorate.

To become certified, an applicant must meet the requirements documented in Board Rules. These requirements include, though are not limited to, submitting an application, having at least an associates degree, documenting hours of required volunteer or professional experience with children, being at least 25 years of age, and being of good character. An initial applicant must

complete a minimum of 24 and maximum of 44 hours of training, including a 16-hour general course with four hours of in-court observation and at least one of three area-specific trainings covering district, superior, or probate courts. The application includes a completed application form, a writing sample, a check of founded abuse and neglect reports within the State's Central Registry, a criminal records release form, and references. Once a complete application is received, the Board has 120 days to approve or deny the application.

Certification is valid for three years. GALs may renew their certification within 90 days prior to expiration or within 90 days after expiration, by including an additional fee and a letter stating why the renewal was late. If the recertification is sought more than 90 days after expiration, the GAL must complete the initial application process to gain recertification. To complete the renewal process, certified GALs must submit an application, a criminal records release form, a check of founded abuse and neglect reports within the State's Central Registry, and have completed 30 hours of Board-approved continuing education within the previous period.

Complaints, Investigations, Adjudication, And Discipline

The Board is responsible for complaint-based oversight of GAL practices; the courts retain responsibility for ensuring GALs provide required service to the court. The Board's jurisdiction includes allegations of misconduct by certified and formerly certified GALs, and CASAs or a CASA of NH supervisor acting as a GAL when complaints are made to the Board. The Board has no jurisdiction over non-certified GALs appointed by the courts or CASAs and supervisors acting as GALs when a complaint is made only to CASA of NH. The Board also has no role in appointing a GAL, supervising the performance of a GAL within the courts, or changing the result of a court case in which a GAL served. In resolving complaints, the Board investigates and adjudicates each case. The Board may dismiss complaints and settle disputes informally. If the Board finds a GAL violated a Rule or statute, the Board is required to impose sanctions, including revocation or suspension of certification, supplemental or supervised training requirements, supplemental education, fines, written reprimand, and treatment and counseling.

We reviewed the Board's handling of 61 allegations of misconduct it received since January 2007 that it considered closed by June 2011. The Board combined three allegations into one complaint. The Board did not accept 22 of the allegations (37 percent) because the complainant did not use the required form (12), the GAL was not certified by the Board (seven), the allegations were non-jurisdictional (two), or the allegation was unsupported (one). Of the 37 complaints accepted by the Board, 26 were dismissed (70 percent), six resulted in discipline (16 percent), two were withdrawn (5 percent), and there were three with no evidence of official closure (8 percent).

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**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

ADMINISTRATION AND STRUCTURE

As a State agency, the Guardian ad Litem Board (Board) is responsible for developing and implementing the management controls integral to efficient and effective operations and ensuring compliance with applicable laws and regulations. The Board is responsible for developing the detailed policies and procedures necessary to operationalize the controls to: aid mission accomplishment, improve accountability, minimize operational problems, provide reasonable assurance it achieves its goals, and help safeguard public resources. We found management control weaknesses in the Board's capacity to manage and support its operations and in its statutory and regulatory configuration.

Observation No. 1

Relocate The Board Within The Joint Board Of Licensure And Certification

The Board lacked the capacity to exercise adequate management control over its administration and operations.

Administrative Attachment

The Board was administratively attached to the Department of Administrative Services (DAS), but received minimal administrative support from the DAS. Thirty-one of 42 (74 percent) State regulatory entities we reviewed, including the Board, were administratively attached. Twenty-six of 31 (84 percent) were attached under the provisions of RSA 21-G:10 which specifies budgeting, recordkeeping, and clerical assistance be provided on a fee-for-service basis. The Board was attached to the DAS under RSA 490-C:7, which did not specify any support be provided.

Staffing

The Board is a volunteer Board with limited resources and limited administrative support. The part-time secretary had limited supervision. The Board was among three of the 42 entities (seven percent) we reviewed, which relied on one part-time staff to support its operations. Of the remaining entities, 11 (26 percent) relied on another agency to provide support, eight (19 percent) had one full-time employee, and 18 (43 percent) had more than one full-time employee. We did not determine how the other two (five percent) entities were supported.

Umbrella Licensing And Certification Agency

Regulatory entities should have similar structures and smaller entities should be co-located with other similar agencies, sharing administrative services to increase efficiency and effectiveness. When small or independent entities have difficulty complying with administrative requirements, consideration should be given to transferring some of their responsibilities to another agency or

adding them to an umbrella agency. The State has three umbrella licensing and certification entities: the Joint Board for Licensure and Certification (Joint Board) and two within the Department of Health and Human Services.

Thirteen boards are assigned to the Joint Board, helping create consistency and ensuring adherence to State procedures. The Joint Board administrator is “responsible for [t]he performance of the administrative, clerical, and business processing responsibilities of the boards...[and]... [e]mployment of personnel needed to carry out the functions of the boards...” under its jurisdiction (RSA 310-A:1-a). The Joint Board handles all administrative duties. Investigations, complaints, and hearings for boards under the Joint Board are handled by the Department of Justice, Administrative Prosecutions Unit.

Management Controls

During the audit period, the Board did not: follow State contracting requirements, consistently process applications and complaints, have records management or other policies and procedures, provide adequate day-to-day supervision of administrative staff, appropriately handle checks, process nonpublic minutes or hold subcommittee meetings according to law, maintain a succession plan, adequately train new Board members or administrative staff, and ensure members consistently filed statements of financial interests.

Recommendation:

We recommend the Legislature consider amending RSAs 310-A and 490-C:7 to include the GAL Board within the Joint Board of Licensure and Certification.

Auditee Response:

We do not concur that the Guardian ad Litem Board should be relocated within The Joint Board of Licensure and Certification. We fully agree that the Guardian ad Litem Board requires more administrative support if it is to fully accomplish the responsibilities assigned to it by the legislature. However, we agree with the Joint Board’s response that the GAL Board is unique in that the individuals we certify practice in an area that is, on a day to day basis, largely overseen by the Judicial Branch. Locating the GAL Board within the Joint Board does not appear to us to be a good fit, because of the very different approaches to certification needed in such an environment.

Joint Board Response:

We concur in part, the thirteen Boards under the Joint Board, with the exception of the Board of Manufactured Housing, license or certify professions or occupations. The Guardian ad Litem (GAL) Board is not a Board that licenses or certifies professions or occupations; therefore the mission of the GAL Board may be inconsistent with the mission of the Joint Board. It is worth noting that the GAL Board is very unique in State Government in that it regulates an activity that occurs within the context of State court proceedings, and is subject to further regulation by the Supreme Court pursuant to RSA 490:26-e.

The Legislature has the discretion to determine whether the GAL Board's mission is consistent with the mission of the Joint Board and if so, to determine whether the GAL Board should be consolidated into the Joint Board.

LBA Rejoinder:

We disagree the GAL Board would not “be a good fit” within the Joint Board. None of the professions, occupations, and trades regulated by entities assigned to the Joint Board oversee the day-to-day activities of their licensees or certificate holders. The Legislature has consolidated some separate entities within the Joint Board, including court reporters in 2007 and accountants in 2011. Court reporters, like GALs, deliver their services to courts.

Observation No. 2

Host Training To Help Cover Board Costs

The Board could cover its operating costs by hosting its own training. The Board commissioned an in-state educational institution to host Board-sponsored trainings, and also did not host required continuing education training during the audit period, potentially forgoing an estimated \$63,000 in revenue. During the two-year audit period, the Board collected \$12,683 in other revenue and expended \$48,023, for a net Board cost to the State of \$35,340.

General And Area-specific Trainings

The Board may provide, or commission in-state educational institutions to provide, guardian ad litem (GAL) training on a tuition basis and to accept and expend funds for this purpose. The Board commissioned NHTI, Concord's Community College (NHTI), to provide all general and area-specific training it requires for initial certification. NHTI registered participants, collected tuition, paid instructors, and provided an equipped training facility. The Board made no payment to NHTI; however, NHTI retained all tuition. According to NHTI, it collected \$47,500 in tuition revenue, and paid \$6,673 in instructor fees, an excess of revenues over expenditures before indirect costs of \$40,827.

Continuing Education

The Board requires GALs complete 30 credits of continuing education (CE) every three years. The Board hosted no CE during the audit period. There were 156 active GALs as of June 30, 2011. Assuming GALs take 10 credits per year, even if the Board offered CE at a minimal \$10 per credit to half of the active GALs per year, CE income for the Board could be \$7,800 per year. Additionally, our survey of GALs asked if CE requirements were reasonable. Those responding no or unsure provided 33 comments, with eight (24 percent) stating the Board should provide more CE credits and seven (21 percent) stating the costs were too high.

Board Operating Costs

The Board is a volunteer Board with limited resources. One Board member indicated the Board decided to have NHTI host the training because there was insufficient Board staff to handle the money, and using NHTI seemed like a “safer” model. We found the Legislature has not required the Board to collect 125 percent of its direct costs, like it does for 40 of the 41 other State entities regulating occupations or professions that are similar to the Board.

It appears the Board could have generated training income sufficient to cover Board direct costs for the audit period. If the Board hosted the training, the Board’s part-time secretary could likely assume associated clerical responsibilities and fully-equipped State training facilities could likely be used at no charge.

Recommendations:

We recommend the Board consider hosting training and CE courses if it is determined doing so would contribute to covering Board operating costs.

We also recommend the Legislature consider amending RSA 490-C to require the Board collect fees to recover 125 percent of the full costs of Board operations, like 40 similar State entities.

Auditee Response:

Hosting Initial Training

We do not concur that the Guardian ad Litem Board should host initial and continuing education. We believe that the auditors seriously over-estimate the potential revenue and underestimate the accompanying expenses. We do not know how the auditors concluded we would offer 10 full and 5 half days of training. The estimate of gross revenue of \$47,520 appears to assume we would offer 2 full days of “general training”, 1 day of child abuse/district court training, 1 day of divorce/superior court training and ½ day of adoption/probate court training at least twice a year. However, current demand is easily met by offering 2 full days of general training and 1 full day of training on matters traditionally handled by NH Superior Courts (Gal 303.02(c)(2) once per year. Because RSA 169-C:10 requires courts to appoint CASA as the guardian ad litem in abuse and neglect cases except in rare instances, there is little demand for Board certified GALs in those cases and, consequently, little demand for training in those areas. Thus, our rough estimate of potential revenue is: \$23,275 rather than the auditors’ estimate of \$47,520. The potential net revenue is also substantially over-estimated because it accounts only for faculty stipends. Left out of the calculations are such items as clerical time to handle registrations and logistics (finding space, arranging for meals, copying the handbook, etc). Fees for room rental and costs of food at the Grappone Center, a likely space, would cost approximately \$45/person. Duplicating a lengthy handbook is another cost that would have to be covered. All of these costs are covered by the fees paid to NHTI.

In addition, the Board notes that relying on training fees to cover Board costs appears to us to be overly risky. Of necessity, we would have to pay staff and faculty based on some estimate of future attendance. In the past, we have seen classes range in size from over 50 to fewer than 30. We do not yet know the impact on the number of potential guardians ad litem due to the recent elimination of publicly funded guardians ad litem in divorce cases. If the training were to be held in the spring, we would have gone through more than three quarters of a fiscal year before we knew the actual registration leaving us with only 2 or 3 months to reduce expenditures elsewhere. Currently, NHTI absorbs this risk. This may be easier for it to do because it has the existing infrastructure to readily deal with all of these back-office logistics while the Board would have to create it.

Finally, we note that the legislature explicitly authorized the Board to:

Commission the participation of Franklin Pierce Law Center, the community college system of New Hampshire, or other appropriate in-state educational institutions to provide training for guardians ad litem on a tuition basis and itself provide training on a tuition basis. (RSA 490-C:4 II (a))

We have contacted the UNH School of Law (formerly Franklin Pierce Law Center) and they have stated they are not interested in working with us.

Finally, although our hopes for a distance learning network for the initial training have not come to fruition, we believe that working with NHTI and the Community College System provides the greatest opportunity to achieve this goal.

Hosting continuing education programs

We do not concur that the Guardian ad Litem Board should present its own continuing education programs. We do not concur that there are insufficient continuing education opportunities in New Hampshire and neighboring states. Among these are at least three major conferences offered by other branches of State Government which clearly qualify for credit from the Board: The Attorney General's Conference on Domestic Violence; The Attorney General's Conference on Child Abuse and Neglect; and the annual Division for Children, Youth and Families Conference. The NH Bar Association presents several family law related seminars every year which are open to non-attorneys as well as members of the NH Bar Association. Other professional organizations present professional development seminars as well, covering areas such as family dynamics, child growth and development, domestic violence and other matters which fit the requirements of Gal 403.02. Setting up the Board to compete with these multiple educational opportunities would be duplicative and a waste of government resources with no sure positive financial outcome for the state.

Requiring the Board to collect fees to recover 125 per cent of the Board's operating costs

We do not concur. The legislature established the Board because of the public complaints about the operations of guardians ad litem, not because of demand from those practicing as guardians ad litem. Guardians ad litem are generally poorly reimbursed for their services and increasing

the costs to become a guardian ad litem sufficient to cover the operating costs of the Board would likely lead to a substantial decrease in the number of certified guardians ad litem. As a rough estimate, there are 156 certified guardians ad litem, each of whom is certified for a three year period, with approximately 52 subject to recertification each year. To recover 125% of our current costs (approx. \$31,000/year), the renewal fee would have to be \$745. At the previous state rate for reimbursement of \$60/hour, which appears to remain a common rate, the individual would have to provide over 12 hours of billable time to cover their costs. This is far higher, we believe, than the costs borne by other professions.

LBA Rejoinder:

Training

NHTI generated \$47,500 in tuition revenue during the audit period by providing three sessions of the initial training to 123 students. According to the Board, there were at least 84 people waiting for initial training by November 2011. The Board could realize additional revenue by offering continuing education. The Board should also explore free training space available at various State agencies instead of using a private venue at \$45 per person.

Self-Funding

The Board's response that it would cost GALs \$745 in renewal fees if the Board was required to recover 125 percent of the full costs of its operations is misleading. It does not take into account revenue it could generate from providing training. In planning its budget, the Board would have to estimate the demand for and revenues generated from training, certifications, and renewals and set tuition and fees accordingly.

Observation No. 3

Consider Altering Board Composition

The Board's composition differed in several ways from most other State entities regulating a profession, occupation, or trade we reviewed.

RSA Title XXX, Occupations And Professions

State regulation of professions, occupations, and trades is designed to safeguard public health and welfare. Well-designed regulatory programs can increase the likelihood citizens and resources are adequately protected. Similarly structured regulatory entities help ensure consistent treatment. The Board was not subject to requirements under RSA Title XXX, the State's Occupational and Professional regulation title.

Appointment

Of the 42 entities we reviewed, including the Board, 38 (90 percent) were composed of Governor and Executive Council (G&C) appointees, two (five percent) were composed of appointees by Governor alone, and two (five percent), including the Board, were composed of appointees from more than one branch of government. The Board was the only entity with appointments from each branch of government whose Executive Branch members were appointed exclusively by the Governor.

Membership

The Board was composed primarily of institutional members such as a member representing the Court Appointed Special Advocates of New Hampshire, Inc. (CASA of NH), the Judicial Council, and the three branches of government. Public members constituted 22 percent of the Board. The 42 entities we reviewed averaged 23 percent public membership. However, best practice recommends public membership approximate 33 percent to aid in providing dispassionate judgment to regulatory entities. The Board was one of four entities to require public members have an interest in the regulated activity. Thirty-six of 42 State regulatory entities (86 percent) required public members have no interest in the regulated activity. Relying on public members with an interest in the regulated activity may limit dispassionate judgment.

Further, the Board was the only entity not mandated to have a Board member from the regulated activity. Of the 42 oversight entities, the average number of Board members from the regulated activity was just over four. Members of the regulated activity can provide activity-specific expertise to regulatory entities. Reliance on institutional members and inadequate numbers of disinterested public members, needed for dispassionate judgment, and members of the regulated activity, needed for expertise, may create an unbalanced structure. The Board was also unique in having legislative members which affected quorum, presumably due to competing demands on their time.

Reimbursement

Thirty-seven of 42 (88 percent) entities provided some reimbursement to members for service, including mileage-only reimbursement. Travel expense reimbursements are common and lessen the burden of volunteers contributing to State governance.

Certification Requirement

Analysis of Administrative Office of the Courts and Board data for State fiscal years 2010 and 2011 revealed of 281 GALs appointed, 156 were certified, 14 were appointed before and served after their certification expired, and 111 were not certified, but were nonetheless appointed. Seventy-four of 76 (97 percent) professions, occupations, or trades regulated by the 42 entities required certification or licensure to practice. GALs were one of two regulated services not required to possess certification or a license to practice. Seventy-one of the 76 (93 percent) were subject to statutory sanctions for practicing without a license or certification. GALs were one of five having no statutory sanction for practicing without certification or license. Lack of a

certification requirement before practicing and statutory sanction for violations undermines the Board's utility by negating: 1) oversight provided during the application review process and 2) potential sanctions following a Board investigation and adjudication of alleged wrongdoing or falsely claiming to be a certified GAL.

Recommendations:

We recommend the Legislature consider:

- **incorporating the Board into RSA Title XXX, subjecting it to general requirements imposed on other similar regulatory entities;**
- **requiring Executive Branch appointees be subject to G&C approval;**
- **requiring at least one certified GAL be a member of the Board;**
- **increasing disinterested public membership on the Board;**
- **reducing institutional membership on the Board;**
- **the practicality of having legislative members on the Board;**
- **appropriate compensation of Board members for their service; and**
- **whether certification should be required to serve as a GAL in the State.**

Auditee Response:

We concur in part.

Incorporating the Board into RSA Title XXX

We do not have sufficient information to understand the full implications of such a change, but believe that the legislature was thoughtful creating the Board and not including it within RSA Title XXX.

Requiring Executive Branch appointees to be subject to G&C approval.

We do not concur. The Governor and Council process is lengthy and political. The legislature was thoughtful in establishing the Board and intentionally did not require Executive Council approval of appointees. This system has worked and there is no need to change it.

Requiring at least one certified GAL be a member on the Board.

We concur. Since the Board's inception, it has at all times had a certified guardian ad litem as a member.

Increasing disinterested public membership on the Board.

We concur that the legislature should consider increasing Board membership. In addition to one additional member of the public, the legislature may wish to consider adding an additional certified guardian ad litem to the Board.

Reducing institutional membership on the Board.

We concur.

Practicality of having legislative members of the Board.

We concur.

Appropriate compensation of Board members for their service.

We concur, noting that time devoted to Board activities is especially problematic for members of the public, certified guardians ad litem and legislators who must take time away from their paid jobs.

Whether certification should be required to serve as a GAL in the State.

We neither concur nor non-concur. We note that it may be beyond the legislature's authority to limit who the courts may appoint to serve as guardians ad litem. We also question the auditors' conclusions about the extent to which non-certified guardians ad litem are appointed because the data relied upon may not be accurate, mixing appointments of guardians with appointments of guardians ad litem.

Observation No. 4

Improve Board Oversight Of CASA Of NH

CASA of NH is accountable to the Board for the actions of its court appointed special advocates (CASA) and complying with Board-established training requirements. The Board and CASA of NH entered into a memorandum of understanding (MOU) for the purpose of formalizing their relationship. However, there was no statutory authority for the MOU, the MOU was not submitted for G&C approval or to the Attorney General's Office for review, nor were Administrative Rules adopted governing the relationship.

By statute, the Board must adopt Administrative Rules for training and continuing education; complaint processing and investigations; adjudicative and disciplinary procedures, penalties, and sanctions; ethical standards and standards of practice; implementing and making specific its statute; and all other formal and informal procedures. The Board never codified any CASA of NH requirements in Administrative Rules. This was left to the MOU. Further, the MOU did not provide for a reporting mechanism or address emergency suspensions or CE of CASAs.

CASA of NH provided no list of CASAs serving as GALs in New Hampshire, nor are CASA of NH volunteers required to be Board-certified. The Board had no jurisdiction over, and CASA of NH was not required to alert the Board of, complaints received by CASA of NH about CASAs.

Further, the Board maintained no records documenting each CASA's successful completion of Board or equivalent training.

The Board does not accept complaints against non-certified GALs. By not keeping a list of CASAs potentially subject to Board jurisdiction, the Board may inadvertently not accept complaints against a CASA, as they do not appear in the Board's database as certified. Further, by not requiring CASA of NH report all complaints about CASAs and by maintaining no record of each CASA's completion of training, the Board may not be fulfilling its statutory requirement to investigate and resolve complaints, oversee GALs, and hold CASA of NH accountable.

Recommendations:

We recommend the Board promulgate Administrative Rules to affect the substance of the current MOU.

We recommend the Board improve oversight by requiring CASA of NH provide to the Board:

- **all complaints received about CASAs,**
- **a list of all current and former CASAs, updated on a regular basis, and**
- **documentation of training completion by all CASAs.**

We further recommend the Board include emergency suspensions and continuing education requirements in its Rules.

Auditee Response:

We concur in part and do not concur in part with the recommendations in Observation 4.

The Board concurs with the recommendation that CASA-NH provide the Board with all complaints about CASA volunteers.

The Board does not concur with the recommendation that it must promulgate administrative rules to effect the substance of the Memorandum of Understanding (MOU) entered into by the Board and CASA-NH effective February 2008 and expiring in February 2015 for the following reasons:

RSA 490-C:6 provides that the Board shall hold CASA-NH accountable for complying with the Board's training requirements. The MOU is the vehicle the Board chose to exercise its authority over CASA-NH. The Board chose this vehicle because it is an efficient use of the Board's minimal resources. The MOU recognizes that the CASA-NH program has training requirements that exceed those required by the Board. CASA requires every CASA-GAL complete a 40 hour initial training and obtain 12 continuing educational credits each year. CASA also has a trained, paid staff that supervises the volunteer GALs and evaluates their performance, thus ensuring the accountability that a volunteer Board cannot provide.

CASA-NH also has a contract with the State of NH through the Judicial Council to provide guardian ad litem services in abuse and neglect cases and certain termination of parental rights

cases. The contract is approved by the Governor and Council. CASA-NH is required to meet with the Judicial Council and submit quarterly reports to assess the performance of CASA in attaining the goals of active cases assigned to CASA during the term of the contract.

Given the level of oversight and accountability of CASA, the Board believes that the MOU is a proper exercise of its discretion that eliminates duplication and redundancy and preserves limited state resources.

For the same reasons stated above, the Board also does not concur with the recommendations that CASA-NH provide the Board with a list of all current and former CASAs updated on a regular basis and documentation of initial training and continuing education.

Observation No. 5

Comply With State Contracting Requirements

The Board did not comply with State procurement law or policy.

State contracting policy requires G&C approve all contracts for personal services totaling \$2,500 or more. State policy and best practice require an open and competitive procurement process with public notice and a formally executed contract document.

The Board paid three service providers in excess of the \$2,500 threshold: one received \$5,884 in five payments over 12 months; the second received \$3,775 in six payments over 14 months; and the third received one \$2,600 payment, for a total of \$12,259. There was no competitive bidding process, no formal contract or signed documents between the Board and the service providers, and no G&C approval for any of these transactions.

By not complying with State requirements the Board did not ensure an open and competitive process, adequately safeguard public funds, nor ensure vetted requirements of the State contracting process were met. With no formal agreement or contract, the Board established no list of deliverables and had no process to address contract defaults or payments.

Recommendations:

We recommend the Board:

- **comply with State law and policy by seeking G&C approval for all personal service contracts exceeding \$2,500;**
- **use competitive procurement practices;**
- **enter into formal, documented agreements including required deliverables, payment methods and amounts, and penalties for default;**
- **arrange training for Board members and staff on State procurement requirements, including where to access State procurement laws, guidelines, and forms; and**
- **ensure Board members are not paid for services.**

Auditee Response:

We concur.

In the past the Board has inadvertently failed to comply with state contracting requirements because the volunteer members and paid staff misunderstood those requirements. We have revised our procedures since this was called to our attention. For example, we issued a formal RFP for investigative services and selected two vendors from among 5 who responded. Future personal service contracts that exceed \$2,500 will also be subject to competitive procurement practices. This is another area that would be addressed if the Board had greater administrative support.

Observation No. 6

Improve Check Handling Controls

Statute requires agencies deposit funds exceeding \$500 (RSA 6:11, II). State Treasury policy on cash receipts suggests agencies deposit receipts daily. On five occasions, the Board held checks totaling more than \$500 for an average of 22 days. These five deposits averaged eight checks each and the deposits amounted to \$3,751. The Board lacked any formal policy on check handling procedures and provided no training to Board staff on such procedures.

Recommendation:

We recommend the Board comply with State law and Treasury policy, develop check handling procedures, and arrange training for Board staff on proper check handling procedures.

Auditee Response:

We concur.

In the past the Board has inadvertently failed to comply with state requirements because the volunteer members and paid staff were unaware of those requirements. We have revised our procedures since this was called to our attention and are currently in full compliance.

Observation No. 7

Implement A Records Management Policy

During the audit period, the Board had no record management policy, record retention policy, requirements or schedule for archiving, or security and confidentiality policy. Additionally, the Board's complaint files were poorly organized and maintained.

The Board maintained hard copy records dating back to its inception, yet could not produce some administrative records we requested. Board files, only recently locked in filing cabinets, contained personally identifiable information including copies of personal checks, driver licenses, and other government identification. Board files were maintained in a shared office. Four complaint files contained non-complaint records, information from one case was mailed to another complainant with a similar-sounding name, and some complaint files contained insufficient information to recreate complaint histories or document formal Board actions.

Board members transferred documentation among themselves, including confidential information, using personal email, a secure file transfer protocol site, compact discs, and USB flash drives. There were no requirements to ensure security and confidentiality of Board data on personal email systems and computers, such as virus protection or encryption.

Agency records aid in controlling and evaluating operations. The Board is required by statute to maintain any information created, accepted, or obtained by, or on behalf of the Board in furtherance of its official function at its regular office, regardless of form. The Board is also required to have a records management program identifying records of permanent and historical value and records not needed, to promote economy, efficiency, and integrity and ensure records are preserved.

Lack of a record retention and archiving policy may affect the availability of information to the Board and the public, or result in needed records being lost or destroyed. Lack of a security and confidentiality policy may put personal information or reputations at risk. Poor file management may place confidential information at risk and decrease Board efficiency and effectiveness.

Recommendation:

We recommend the Board develop a records management policy including a record retention, maintenance, and organization policy; archiving requirements and schedule; and security and confidentiality requirements for all records regardless of form.

Auditee Response:

We concur.

The Board does not have a records management policy. The Board itself recognized this was an area of concern and requested guidelines from both the Division of Archives and Records Management and the Department of Administrative Services. Unfortunately both responded that

each state agency was free to develop its own policies and they did not have a model they could provide us. We fully concur that the Board should have a records management policy, but also believe there are other issues relating more directly to overseeing and improving the quality of guardian ad litem services that require the attention of volunteer board members and part-time staff.

We will seek to develop a confidentiality agreement that Board members will be required to sign before having access to confidential information. Although we recognize the risk of a security breach, we have no resources to assist members in purchasing, installing or maintaining such security measures and believe the balance we have drawn is reasonable.

Observation No. 8

Ensure Continuity Of Operations

The Board lacked policies or procedures helping ensure continuity of operations in the event of staff turnover.

Management controls help minimize risk and maximize effectiveness. Good management controls include appropriate policies and procedures for each of the entity's activities, succession planning ensuring continuity of needed skills and abilities, and employee supervision ensuring staff are aware of duties, responsibilities, and expectations. However, the Board has: 1) a part-time secretary responsible for all administrative activities, 2) limited policies and procedures documenting Board activities, 3) no Board-specific initial training for new employees, and 4) very limited day-to-day supervision for Board staff.

The Board is a volunteer Board with limited resources; however, without good management controls, the Board cannot ensure its objectives will be achieved.

Recommendation:

We recommend the Board develop and maintain policies and procedures for all significant administrative activities.

Auditee Response:

We concur.

The Board does not have written policies and procedures for all significant administrative activities. With a volunteer board and part-time staff lacking adequate administrative support, this is an area that we have not been able to sufficiently address. The Administrative Secretary left the Board on January 6, 2012 and did what she could in the time available to develop an office manual. However, this must be done in addition to normal daily tasks that cannot be left undone, such as responding to inquiries from the public and guardians ad litem, preparing minutes, and assuring that applications and complaints are processed in a timely manner.

Observation No. 9

Ensure All Members Comply With Statement Of Financial Interests Filing Requirements And Meetings Conform To Statute

Five of the 11 Board members (45 percent) did not submit required Statements of Financial Interests during the audit period. Of 28 required filings, Board members timely filed 21 (75 percent). Board members must file a Statement annually. Effective May 26, 2010, no person required to file a Statement is statutorily eligible to serve in his or her appointed capacity prior to filing.

Six of 27 Board meetings (22 percent) relied on members who did not file or did not timely file Statements to achieve a quorum. Three of 15 meetings (20 percent) occurring after May 26, 2010 relied on ineligible members to achieve a quorum. At least one Complaint Subcommittee meeting relied on ineligible members to achieve a quorum. Using ineligible members to achieve a quorum may affect Board decisions.

Statements are intended to identify conflicts of interest and it is a misdemeanor to knowingly fail to comply with the filing requirement or file a false Statement. Board members were notified and provided blank Statements of Financial Interests forms in their appointment letters and were reminded by the Board Chairman to file in January 2010, suggesting a lack of diligence on the part of Board members contributed to filing failures.

Recommendations:

We recommend the Board develop and implement written policies and procedures to ensure full statutory compliance. We also recommend the Board ensure members who do not file Statements are excluded when establishing a meeting quorum and prevented from participating in Board business.

Auditee Response:

We concur.

All members have been notified of the requirement to file a financial disclosure statement and the Administrative Secretary and Board Chair will follow-up to ensure they comply. This includes ex-members who sit on the Board when their presence is necessary to achieve a quorum.

Observation No. 10

Consistently Comply With Right To Know Requirements For Nonpublic Meetings

The Board inconsistently complied with right to know requirements regarding nonpublic sessions of Board meetings during the audit period.

To enter nonpublic sessions, there must be a motion, seconded; a roll-call vote; and proper authority cited. The Board held 27 nonpublic sessions during the audit period. No motion to move to a nonpublic session or roll-call vote was recorded for one (four percent) meeting and motions did not cite authority to enter nonpublic session for five (19 percent) meeting minutes. Also, six (22 percent) nonpublic meeting minutes identified discussions of topics which did not conform to the cited authority for the session and which should have been discussed during public session.

Nonpublic session minutes must be made available for inspection within 72 hours of the meeting, unless a vote of two-thirds of the members present determine the information may adversely affect the reputation of any person other than a Board member. The Board never sealed nonpublic session minutes, yet they contained confidential information or information which could affect the reputation of a person other than a Board member. There was no Board policy on redacting nonpublic meeting minutes, but some minutes were redacted and all were available for review through a right to know request. This may have risked the release of confidential information or information which could adversely affect the reputation of a person who was not a Board member.

Recommendations:

We recommend the Board consistently comply with right to know requirements by moving to enter nonpublic session with roll call votes, recording authority to enter nonpublic session, sealing nonpublic minutes when necessary, and only addressing matters properly before a nonpublic session in those sessions.

We further recommend the Board establish a formal policy regarding redacting confidential information in nonpublic minutes prepared for public release.

Auditee Response:

We concur.

The volunteer members of the Board were unaware of the requirement that a public meeting precede a nonpublic session even if the meeting is announced as a nonpublic session to deal with pending complaints. Since this was brought to our attention, we have consistently opened in public session and then voted to go into nonpublic session.

The Board strives to comply with Right to Know requirements of minutes of nonpublic sessions. We believe we have come to a resolution that provides the public adequate information about

our activities while preserving confidentiality of complainants and guardians ad litem as required in RSA 490-C:5-b.

Observation No. 11

Ensure Subcommittees Conform To Statute

The Board relied upon a complaint subcommittee to review the substance of all complaints and make recommendations to the Board. The Board also relied on at least one additional subcommittee for education and training issues during the audit period. State law requires agencies adopt organizational Administrative Rules, rules detailing agency operations, and rules of practice detailing formal and informal procedures. The subcommittees' existence, structure, method to appoint members, and operations were not codified in statute or Rule.

Subcommittees are public bodies subject to right to know requirements; however, Board subcommittees did not adequately publish required meeting notices or consistently maintain minutes. Inadequate recordkeeping prevented us from determining whether subcommittee meetings were held with a quorum and there were no indications public meetings were held by the subcommittee for the purpose of entering into non-public sessions.

Board files demonstrate the complaint subcommittee contacted complainants and GALs subject to complaints directly at least four times to close a case. Statute requires the Board resolve complaints and dismiss cases active in the courts. Neither statute nor Board Administrative Rules provide a role for the subcommittee in making final decisions.

Recommendations:

We recommend the Board:

- **promulgate Administrative Rules detailing the composition, role, and authority of subcommittees;**
- **comply with right to know requirements by issuing notice of subcommittee meetings, holding public subcommittee meetings before entering non-public session, and maintaining minutes of subcommittee meetings; and**
- **ensure all decisions and communications related to complaints are handled by the Board, not a subcommittee.**

Auditee Response:

We concur.

Promulgate Administrative Rules detailing the composition, role, and authority of subcommittees.

We concur.

As a volunteer board with limited administrative support and many demands on our resources, it will take us some time to achieve this goal.

Comply with right to know requirements by issuing notice of subcommittee meetings, holding public subcommittee meetings before entering nonpublic session and maintaining minutes of subcommittee meetings.

We concur.

We will ensure subcommittee meetings will be held with adequate public notice by posting on the Board's website and at the Board's office the location of the meetings. The only functioning subcommittee we have is the Complaint Subcommittee. Every meeting has been clearly posted in the Calendars of the House and Senate as well as listed on our website.

We concur that minutes of Complaint Subcommittee meetings have not been consistently maintained because the work of the subcommittee was documented in the complaint docket and database. However, we now understand this is not sufficient and have begun keeping minutes.

Ensure all decisions and communications related to complaints are handled by the Board, not a subcommittee.

We concur.

In the past, actions may have been taken by the Complaint Subcommittee rather than the full Board, but we are unable to discern exactly what happened in a few cases during the early days of our handling of complaints. However, currently only the Board takes actions on complaints. However, we note that purely administrative communications, such as requesting that a complaint form be filled out, will continue to be handled by the Administrative Secretary to avoid needless delay in the processing of complaints.

Observation No. 12

Comply With Statutory Requirements For Cost And Fee Structure Recommendations

The Board has not investigated and made recommendations to the Legislature and the New Hampshire Supreme Court on the cost and fee structure established by Supreme Court rules, as required by statute. The Board is a volunteer Board with limited resources for conducting such a study. One Board member noted the law was intended to ensure the rates for GAL services in indigent cases were adequate, but the Board did not complete the fee study because the Board felt there were "separation of powers" issues with an Executive Branch entity making recommendations on a Judicial Branch rule. However, the Board is not complying with statutory requirements.

Recommendations:

We recommend the Board comply with statutory requirement to investigate the cost and fee structure established by Supreme Court rules.

We further recommend if the statutory requirement to investigate and make recommendations on the cost and fee structure is no longer relevant or should not be the responsibility of the Board, the Board should seek a statutory change through the Legislature.

Auditee Response:

We concur.

To the extent we are able, we will seek the repeal of RSA 490-C:4 (b). The Board has a long list of responsibilities with very limited resources to accomplish them. In deciding which responsibilities on which to focus our attention, we looked to areas in which the Board could have some direct control, namely certifying and providing a disciplinary structure for, guardians ad litem in New Hampshire. Because the Board has no authority to set fees, it seems clear that this decision was a wise one.

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**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

OPERATIONS

State regulatory programs like the guardian ad litem Board (Board) are designed to safeguard public health and welfare by protecting the public from unqualified or unscrupulous practitioners. A well-designed regulatory program can increase the likelihood regulation will adequately protect citizens and resources. We found significant problems with the Board's handling of complaints, because its actions were inconsistent, untimely, and not in compliance with its Rules. We also found the Board's: 1) handling of court-provided data on late guardian ad litem (GAL) reporting, 2) inconsistent waiving of complaint filing fees, 3) lack of oversight of Court Appointed Special Advocates of New Hampshire, Inc. (CASA of NH) volunteers, and 4) inconsistent handling of applications were weaknesses in Board operations. We also identified renewal requirements could be streamlined.

Observation No. 13

Ensure Complaints Are Processed According To Requirements

Board complaint processing was inconsistent with statute, Board Administrative Rules, Attorney General advice, and past practice, potentially affecting due process for complainants or GALs who were the subject of complaints.

During our file review of all 61 misconduct allegations filed since the Board's creation, we found several examples from the resulting 37 accepted complaints where the Board acted inconsistently or failed to follow its own Administrative Rules when rendering decisions. These examples include:

- one inappropriate dismissal;
- one dismissal predating investigation and board action, inappropriate rule waiver, and dismissal for consistency's sake;
- one nonconformance with Attorney General advice;
- one continued action without authority;
- one dismissal without acceptance or notice;
- one failure to reject an incomplete allegation;
- one allegation sent straight to a hearing without an opportunity for the GAL to respond to the allegations;
- sixteen which had no appearance forms filed; and
- thirty-seven which had no option for a prehearing or settlement.

The Board is a volunteer board with part-time support. Some members may be unfamiliar with details within Board Administrative Rules. Ambiguities within the Rules also allow for varying interpretations of the complaint process, which can result in inconsistent Board decisions. The Board had no regular external reporting requirement or internal complaint tracking mechanism, but began developing a complaint database at the end of the audit period.

Recommendations:

We recommend the Board process complaints consistent with statute, Administrative Rule, and Attorney General advice, ensuring all complaints made by any person are investigated and resolved, and ensure decisions and communications related to allegations are handled consistently, helping ensure all parties to complaints receive due process.

We also recommend the Board or its members not waive requirements in its own Rules without proper authority.

We further recommend the Board continue to develop the complaint database and use the database as a tool to analyze timeliness, help ensure conformity with statute and Administrative Rules, and track complaint status.

Auditee Response:

We concur.

The cited case created a complicated legal situation which required a great deal of research by the Attorney General. Once that opinion was received by the Board, we acted accordingly. Although the complaint was ultimately dismissed, it was done so on the basis that no violation of rules existed, not that the Board had no jurisdiction. Unfortunately, with a volunteer board and part-time staff, this may not have been accurately transmitted to the complainant.

We concur that we have acted inconsistently in making decisions about complaints. With a volunteer board and part time staff we are forced to rely on fallible memory to recall how we have dealt with prior similar cases. We believe this has been minimized with a highly efficient Administrative Secretary, and hope her replacement is as efficient. However, we must note that any replacement will not have the historical knowledge necessary to ensure consistency. To the extent that ambiguous and conflicting administrative rules contribute to the problem, we note that our rules had to be written from scratch, with no practical experience to guide us. We have become aware of several instances of rules which require re-writing, but with a volunteer board and part-time staff have been unable to find the necessary resources to deal with a complex administrative rule-making process.

Over 90% of concerns conveyed to the Guardian ad Litem Board come from lay-people who are not familiar with administrative and statutory requirements for complaining about the actions of a guardian ad litem. The Board frequently receives lengthy narratives giving great detail about a case with only a general statement that the guardian ad litem violated one or more of our rules. Volunteer board members must spend hours reading hundreds of pages of documents to determine whether a concise allegation of misconduct can be discerned. The Board tries to be fair and helpful to potential complainants while recognizing the rights of the guardian ad litem.

Observation No. 14

Ensure Allegations Of Misconduct And Complaints Are Processed Timely

The Board did not consistently process complaints timely.

Of the 61 allegations submitted to the Board since its inception, 26 (43 percent) did not meet the required 60-day timeline to notify complainants whether their allegation was complete. The Board took an average of 96 days (median 44 days) and up to 504 days to review allegations.

Of the 22 complete allegations not accepted as complaints, seven (32 percent) exceeded the required 120-day timeline to decide to investigate or dismiss a complete allegation. On average, it took the Board 131 days (median 56 days) to decide to accept or reject allegations, and as many as 848 days.

While there was no overall timeline established for resolution of complaints, the Board took from 14 to 930 days to reach a final decision, averaging 333 days (median 184 days).

The Board is a volunteer Board with limited support. Some members may have been unfamiliar with details of Board Administrative Rules. Ambiguities within the Rules also may have allowed for varying interpretations of timelines for the complaint process, leading to inconsistent handling. We found 20 written communications from the Board, to complainants apologizing for the length of time the Board took to address their concerns, suggesting the Board is aware of timeliness issues.

The Board began developing a complaint database at the end of the audit period, which may facilitate tracking timeliness. However, unlike most other State entities regulating professions, occupations, and trades similar to the Board we reviewed, the Board has no routine external reporting requirement. Management analysis and reporting are a component of regulatory body best practice.

Board actions potentially affect due process for complainants and GALs about whom an allegation was filed.

Recommendations:

We recommend the Legislature consider requiring the Board provide an annual report of its activities to the Governor and Executive Council, the Chief Justice of the Supreme Court, and the public.

We recommend the Board comply with its own Administrative Rules to ensure all decisions and communications related to allegations against GALs are processed timely and consistently.

We also recommend the Board continue to develop the complaint database and use the database as a tool to analyze timeliness and track complaint status.

Auditee Response:

We concur.

As a board of volunteers and part-time staff, we do our best to handle complaints in a timely manner. Over 90% of concerns conveyed to the Guardian ad Litem Board come from lay-people who are not familiar with administrative and statutory requirements for complaining about the actions of a guardian ad litem. The Board frequently receives lengthy narratives giving great detail about a case with only a general statement that the guardian ad litem violated one or more of our rules. Volunteer board members must spend hours reading hundreds of pages of documents to determine whether a concise allegation of misconduct can be discerned. The Board tries to be fair and helpful to potential complainants while recognizing the rights of the guardian ad litem.

We concur that it is good practice to provide regular annual reports. We believe that with our databases on certified guardians ad litem and complaints, we will be able to do so.

Observation No. 15

Reevaluate The Complaint Filing Fee

The Board inconsistently applied the complaint filing fee during the audit period and was the only one of 41 similar entities regulating professions, occupations, or trades we reviewed to require such a fee.

By statute the Board may collect a complaint filing fee of \$100 or waive the filing fee upon written request if "... to do so would encourage continued cooperation between the board and the judiciary, other entities of government or individuals involved in matters relating to guardians ad litem." Neither statute nor Rule provide criteria for waiving the fee.

Inconsistency

Since the Board began processing allegations in 2008, 39 allegations were accepted as complaints and closed, and 22 allegations were not accepted. Of accepted complaints, 19 (49 percent) had fees paid, six (15 percent) had fees waived, and 14 (36 percent) had no evidence of fees being paid or waived. Of the 22 allegations not accepted, five paid the fee. The filing fee was returned to three of the five complainants, with no evidence demonstrating whether the fee was returned to the other two complainants.

Use Of A Complaint Filing Fee

The Board instituted the fee to deter frivolous complaints. The anticipated load of allegations never materialized, although the allegations received were reportedly more complex than anticipated. The Board received an average of 15 allegations annually since 2008. Board Rules provide authority to dismiss baseless complaints.

Recommendations:

We recommend the Board reevaluate whether the complaint filing fee is needed. We further recommend if the Board determines the fee is not needed it seek a statutory change to eliminate its authority to impose the fee.

We also recommend if the fee remains in use, it be applied consistently and the Board adopt in Administrative Rule criteria for waiving the fee.

Auditee Response:

We concur. As a board of volunteers and part-time staff, we have limited resources to devote to the complex task of revising administrative rules. This is one area among many that should be reviewed, and we will do our best to address it. In the meantime, we will also do our best to apply the waiver provisions of Gal 203.04 consistently. This is an area where more adequate administrative support would be helpful.

Observation No. 16

Consider Disciplining GALs For Late Court Reports

The courts provided the Board with quarterly data regarding late GAL reports since at least January 2007. The Board never disciplined a GAL for late reports, and has questioned whether court reporting has been consistent and comprehensive.

Court-provided data on late GAL reports illustrate 88 Board-certified GALs and 37 court appointed special advocates (CASA) were responsible for one or more late reports. Twenty GALs were responsible for more than one late report in a given quarter; of these, one GAL was late filing ten reports on ten cases. Reports were late between one and 246 days, with a median of seven days, and an average of 28 days. We estimated 248 reports were filed late during the audit period.

The Board is responsible for overseeing the discipline of certified GALs. Board Administrative Rules require GALs prepare thorough and timely reports. CASAs must also conform to Board Rules, but the Board has no authority over non-certified GALs.

Recommendation:

We recommend the Board conform to statute and Administrative Rules requiring it investigate and discipline Board-certified GALs and CASAs for late reports to the Court.

Auditee Response:

We concur.

The relevant statute, RSA 490:26-g clearly establishes that the courts are responsible for discipline in the first instance. To the best of our knowledge, courts are accepting this responsibility and applying fines appropriately. The statute further gives specific guidance to the Board by requiring that reports of late reports be made available to the public. We do so.

The Board is similar to other enforcement agencies that must allocate scarce resources to areas which most benefit the public. The Board has concluded that courts appear to be at least adequately enforcing the requirements for timely reports. We will continue working with the Judicial Branch to respond to the reports we receive in a cost-effective manner.

Observation No. 17

Ensure Application Processing Is Consistent And Complies With Rules

The Board inconsistently complied with Administrative Rules regarding applications processed during the audit period. The Board may have exceeded its authority by inconsistently following its Rules and treating applicants differently, and may have extended processing timelines without clear authority.

Timeliness

The Board did not meet its required 60-day deadline to notify applicants in writing if the application is incomplete in three of 129 (two percent) initial and renewal applications processed during the audit period. The Board may have missed its deadline in eight other cases (six percent), depending whether the Board was authorized to “re-start” the 60-day timeline. Administrative Rules are ambiguous on whether the Board has another 60 days to review requested material.

Applicants did not meet the required 45-day deadline to submit Board-requested information in nine of 129 (seven percent) applications processed during the audit period. These applicants should have been denied; however, five were approved, two were denied, and two others were denied but the decision was later overturned and they were approved.

Renewal 90 Days After Expiration

The Board inconsistently enforced Administrative Rules requiring applicants complete the initial certification process, including the initial training, if recertification was requested more than 90 days after expiration. Twenty-four applicants sought renewal more than 90 days after expiration, and the Board required an initial application be submitted in 20 cases (83 percent). The Board denied one late renewal application (four percent) without offering temporary certification and later overturned the denial granting certification. In three renewal cases (13 percent),

circumstances were the same, but two were processed as timely applications, while the other received a temporary certification and was required to complete the initial certification process.

Temporary Certification

An applicant can be temporarily certified if they were: formerly certified; not subject to any disciplinary proceedings, ongoing penalties, or sanctions; and currently appointed as a GAL. The Board issued temporary certification to one GAL who was the subject of an active complaint investigation. The term “disciplinary proceedings” is not defined in Administrative Rules, so it is unclear if an active complaint investigation is considered a disciplinary proceeding. Additionally, the Board approved temporary certification for one GAL and denied another, although both sought temporary certification under identical circumstances. Administrative Rules actually required both to submit *renewal* applications as they were within 90 days of expiration.

Renewal Date

Both statute and Rule state certification will be valid for three years but do not clearly define when the three year period starts. In 52 of 61 renewal applications (85 percent) processed during the audit period, the Board applied an expiration date of three years from the date of the meeting when the Board approved recertification. In five cases (eight percent), the Board used three years from the most recent expiration date as the renewal date. Four other cases (seven percent) had apparently arbitrary expiration dates matching neither the Board meeting date when the decision was made, nor the original expiration date.

Recommendations:

We recommend the Board follow Administrative Rules when processing applications, including:

- **timelines,**
- **renewals occurring more than 90 days after expiration,**
- **temporary certification, and**
- **effective renewal dates.**

We further recommend the Board amend and clarify Rules regarding the 60-day deadline for additional information requests, the definition of “disciplinary proceedings,” and effective renewal dates.

Auditee Response:

We concur.

As a volunteer board with part-time staff we do our best to be consistent in the way in which we handle and decide on applications, but are dependent on fallible memories to remember how previous similar situations were handled. We believe this has been minimized with a highly efficient Administrative Secretary, and hope her replacement is as efficient. However, we must note that any replacement will not have the historical knowledge necessary to ensure

consistency. To the extent that ambiguous and conflicting administrative rules contribute to the problem, we note that our rules had to be written from scratch, with no practical experience to guide us. We have become aware of several instances of rules which require re-writing, but with a volunteer board and part-time staff have been unable to find the necessary resources to deal with a complex administrative rule-making process.

Observation No. 18

Simplify The Renewal And Recertification Processes

The Board's renewal and recertification processes include extensive information requirements and the submission of up to eight forms totaling at least 24 pages. Information requests seemed onerous and information was requested that was already in the Board's files. In addition, some Rules, once needed to certify pre-existing GALs, were obsolete.

Our survey of GALs identified 28 of 48 (58 percent) of those completing the renewal process within the past three years found the information requested by the Board was not reasonable. Twenty-one of 26 comments provided by GALs found the renewal process was overly burdensome, time consuming, complex, or duplicative. Further, 18 comments provided on the clarity of the renewal process included eight stating there were too many forms or the forms were too complex.

While collecting information about GALs may have potential benefits such as assisting the courts in making appointment decisions, the Board Chairman stated the requested information is not used by the Board and not provided to the Courts. Similarly, while it may be good practice to ask renewing or recertifying GALs if they have been subject to discipline outside of the Board, the process could be simplified.

Recommendations:

We recommend the Board review its renewal and recertification Rules and consider:

- **removing requests for information not used by the Board or the courts;**
- **removing requests for information already maintained in the Board's files;**
- **simplifying requests for detailed information on any misconduct or discipline since the most recent certification; and**
- **repealing Administrative Rules no longer applicable to any GAL.**

Auditee Response:

We concur.

As a volunteer board with part-time staff we have struggled to find the time to adequately review the rules governing the application and recertification process. We understand that some changes to RSA 541-A may have made the rule-making process easier in ways which may help

us. However, we also note the administrative rule-making process is lengthy and complex. We need to determine whether it is more efficient to address one issue at a time, for example, applications and recertification, or whether it is better to look at the rules as a whole, including other areas identified by the Board and the LBA auditors that need revision.

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**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

OTHER ISSUES AND CONCERNS

In this section, we present issues we consider noteworthy but not developed into formal observations. The Guardian ad Litem Board (Board) and the Legislature may wish to consider whether these issues and concerns deserve further study or action.

Reevaluate Training Topics

Changes in Board training may be needed to improve its effectiveness. Training may not have allotted appropriate time to specified topics depending on the experience of the applicant. Training was repetitive. Our survey of Board-certified GALs found 43 of 95 (45 percent) of respondents reported the required training sufficiently prepared them to complete their roles and responsibilities as a GAL, and 18 of 38 (47 percent) comments stated the Board's training was not useful.

The Board required applicants complete the Board-commissioned general training and at least one Board-commissioned area-specific training to be eligible for certification. The Board offered the same initial training requirements for all applicants regardless of experience or background, although backgrounds may vary significantly. For all initial and renewal applicants during the audit period, 78 of 129 (60 percent) had a law degree. Of those with a law degree, 21 of 78 (27 percent) had a degree in a social service area including; education, mental health, nursing, psychology, or social work, compared to 28 of 51 (55 percent) of those without a law degree.

Survey respondents identified legal or GAL processes such as court processes, conducting an investigation, applicable law and legal standards, and report writing as the top four areas needing additional instruction. Eight of 22 (36 percent) comments stated there should be separate training for lawyers and non-lawyers or training based on experience. Four Board members and one GAL we interviewed stated there should be separate tracks for lawyers and non-lawyers, as training needs differ.

Content related to ethical standards and standards of practice, the GAL role, report writing, and mental health and developmental services in New Hampshire, are repeated in all required trainings. Since 148 of 217 (68 percent) certified GALs active during the audit period completed all trainings, the repetitive content may have decreased training efficiency.

We suggest the Board reevaluate training topics, training needs based on experience, and the repetitive nature of initial training requirements to more effectively meet the needs of GALs.

Improve Training Availability

The initial GAL training has not been offered since the fall of 2010. Board statute requires the Board establish certification requirements. Board Rules state all GALs must complete Board-commissioned training. The Board offered three initial trainings during the audit period: fall 2009, spring 2010 (two of four trainings, general and superior only), and fall 2010. All were

offered at NHTI, Concord's Community College (NHTI). According to NHTI data, 123 registered for the general trainings averaging 41 students per training session.

As of November 2011, six GALs were temporarily certified awaiting the next Board training. All will have been temporarily certified for over a year before the next training is offered. Also, more than 80 individuals are on the GAL training notification waiting list.

The Court Appointed Special Advocates of New Hampshire, Inc., (CASA of NH) requires all volunteer GALs complete a required training prior to serving as a GAL in abuse and neglect cases. During this same period, the CASA of NH provided 15 training sessions, at multiple locations across the State, trained a total of 106 volunteers, and averaged seven participants per class (range: one to 17) during the audit period.

We suggest the Board hold trainings at regular intervals.

Consider Implementing An Examination

The Board requires no examination to become a certified GAL. As a result, the Board does not assess the knowledge obtained by GALs completing the required training. Of 76 regulated professions, occupations, or trades (including the certified GALs in New Hampshire), 68 (89 percent) required some form of an examination demonstrating competency. Thirty-five of 76 (46 percent) required a written examination, 16 of 76 (21 percent) used a national examination, and 9 of 76 (12 percent) had a practical exam (others had oral or computer-based testing). At least two boards in the State develop their own examination for licensees.

We suggest the Board require an examination to assess the knowledge and understanding of potential GALs.

**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

**APPENDIX A
SCOPE, OBJECTIVES, AND METHODOLOGY**

Scope And Objectives

In June 2011, the Fiscal Committee of the General Court adopted a recommendation by the joint Legislative Performance Audit and Oversight Committee (LPAOC) to conduct a performance audit of the Guardian ad Litem Board (Board). We held an entrance conference with the Board during the same month. In September, the LPAOC approved our scope statement. Our audit sought to answer the following question: **Did the Board efficiently and effectively fulfill its statutory responsibilities to oversee the credentialing and activities, and discipline of Board-certified guardians ad litem (GAL) and court appointed special advocates (CASA)?** To address this question, we focused on the Board's responsibilities and activities during State fiscal years (SFY) 2010 and 2011. We examined the Board's structure, administration, and operations. We did not audit other State entities with responsibilities over Board-certified GALs, non-certified GALs, and CASAs.

Methodology

To gain an understanding of the Board's statutory authority and requirements, and the service GALs provide to the courts, we:

- reviewed Board-related statutes (RSA 490-C), Administrative Rules (Gal 100-500), and procedures;
- reviewed research and other states' audits on GAL services;
- obtained an understanding of other State entities' responsibilities in overseeing and providing GAL services; and
- interviewed Board members and staff, GALs, judges, marital masters, and lawyers.

Additionally, to assess whether the Board is efficiently and effectively fulfilling its regulatory responsibility and has established adequate management controls, we:

- reviewed Board revenues and expenditures;
- documented the Board's credentialing process and tested compliance with certain requirements;
- documented the Board's complaint process and tested compliance with Administrative Rules;
- reviewed Board-developed education and training requirements;
- surveyed certified GALs about their experience with the Board and GAL requirements;
- surveyed marital masters and judges as consumers of GAL services, on the quality of certified GALs' work;
- obtained and analyzed GAL and CASA appointment data (see below);
- obtained and analyzed data on the Board's budget;
- reviewed Board public and nonpublic meeting minutes;

- assessed Board contracts, contracting processes, and memos of understanding;
- reviewed Board data handling and record retention practices;
- reviewed overall Board governance issues;
- reviewed use of subcommittees; and
- determined common practices for similar regulatory entities in the State.

Appointment Data

The Administrative Office of the Courts provided appointment data containing all cases opened after January 1, 2005 (the effective date of the Board's GAL certification rules) and closed during SFYs 2010 and 2011 to which a GAL or CASA was appointed. We compared GAL names found in this data with the Board's listings of all current and former certified GALs. CASA names were not required to be entered into the court's database; instead, the Court Appointed Special Advocates of New Hampshire, Inc. was named as the GAL. This limited our ability to analyze CASA-related cases. We did not assess the quality of the courts' data nor the controls over it by the Administrative Office of the Courts.

**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

**APPENDIX B
GUARDIANS AD LITEM SURVEY RESULTS**

We conducted an online survey of guardians ad litem (GAL) certified by the GAL Board during the audit period asking about their experience as a guardian ad litem (GAL) and with the GAL Board. Recipients were provided ten days to respond. While 227 GALs were certified during the audit period, only 206 (91 percent of the population) could be contacted. Of 206 recipients, 100 provided responses for a population response rate of 44 percent and a survey response rate of 49 percent of those actually sent the survey.

The following summarizes survey results. Open ended questions were only coded and presented if a similar trend or response was identified throughout the comments.

Q1. Please identify your current status as a guardian ad litem in New Hampshire.

Answer Options	Response Percent	Response Count
Certified	81.8%	81
Temporary Certification	3.0%	3
Expired	15.2%	15
Suspended	0.0%	0
Revoked	0.0%	0
Denied	0.0%	0
	<i>answered question</i>	99

Q2. How long have you been or were you a guardian ad litem in New Hampshire?

Answer Options	Response Percent	Response Count
< 1 year	11.1%	11
1 – 4 years	24.2%	24
> 4 years	64.6%	64
Not Applicable	0.0%	0
	<i>answered question</i>	99

Q3. What is your highest degree completed?

Answer Options	Response Percent	Response Count
Doctor of Philosophy	1.0%	1
Doctor of Ministry	1.0%	1
Juris Doctor	54.5%	54
Master's	20.2%	20
Bachelor's	22.2%	22

Associate's	1.0%	1
	<i>answered question</i>	99

Q4. What year did you complete the NH Guardian ad Litem Board's initial training requirements? If you completed the training more than once, please check all that apply.

Answer Options	Response Percent	Response Count
2005	36.8%	35
2006	22.1%	21
2007	13.7%	13
2008	7.4%	7
2009	20.0%	19
2010	22.1%	21
	<i>answered question</i>	95

Q5. Did required training by the Guardian ad Litem Board sufficiently prepare you to complete your role and responsibilities as a guardian ad litem?

Answer Options	Response Percent	Response Count
Yes	45.3%	43
No	33.7%	32
Unsure	21.1%	20
If No, please explain.		40
	<i>answered question</i>	95

Q5. COMMENTS. Did required training by the Guardian ad Litem Board sufficiently prepare you to complete your role and responsibilities as a guardian ad litem? If No, please explain.

<i>Count</i>	<i>Description</i>
7	More training on court processes and expectations.
3	More training topics needed.
5	Need experience more than training.
3	Separate tracks for lawyers/non-lawyers.
3	Previously took CASA training which was better.
18	The training was not useful.
5	Other
44	Total Comments (excluding yes)
40	Total Respondents

Q6. Does the Guardian ad Litem Board's initial training need more instruction in any of the following subject areas? Check all that apply.

Answer Options	Response Percent	Response Count
Court Processes	41.3%	38

Report Writing	30.4%	28
Billing	19.6%	18
Domestic Violence	16.3%	15
Substance Abuse	21.7%	20
Mental Health Issues	25.0%	23
Parental Alienation	22.8%	21
Conducting an Investigation	35.9%	33
Communicating with Children	26.1%	24
Family Dynamics	20.7%	19
Child Development	23.9%	22
Applicable Law and Legal Standards	31.5%	29
No Additional Subject Areas Needed	12.0%	11
Other (please specify)	26.1%	24
	<i>answered question</i>	92

Q6. COMMENTS. Does the Guardian ad Litem Board's initial training need more instruction in any of the following subject areas? Other (please specify)

<i>Count</i>	<i>Description</i>
3	Court Processes
3	Separate tracks for lawyers and non-lawyers
18	Other
24	<i>Total Comments</i>
24	<i>Total Respondents</i>

Q7. Are there any subject areas where less training should be required?

Answer Options	Response Percent	Response Count
Yes	20.0%	19
No	57.9%	55
Unsure	22.1%	21
If Yes, please explain.		22
	<i>answered question</i>	95

Q7. COMMENTS. Are there any subject areas where less training should be required? If Yes, please explain.

<i>Count</i>	<i>Description</i>
8	Separate tracks based on experience, background
14	Other
22	<i>Total Comments</i>
22	<i>Total Respondents</i>

Q8. Have you completed the initial certification process with the Guardian ad Litem Board in the last three years?

Answer Options	Response Percent	Response Count
Yes	47.4%	46
No	52.6%	51
	<i>answered question</i>	97

Q9. Was the initial certification process clear?

Answer Options	Response Percent	Response Count
Yes	78.3%	36
No	21.7%	10
If No, please explain.		12
	<i>answered question</i>	46

Q10. Was the certification information requested by the Guardian ad Litem Board reasonable?

Answer Options	Response Percent	Response Count
Yes	76.1%	35
No	23.9%	11
If No, please explain.		13
	<i>answered question</i>	46

Q11. If you contacted the Guardian ad Litem Board for assistance, was the Board helpful?

Answer Options	Response Percent	Response Count
Yes	60.9%	28
No	13.0%	6
Did Not Contact the Board	26.1%	12
If No, please explain.		8
	<i>answered question</i>	46

Q12. Have you completed the renewal or recertification process with the Guardian ad Litem Board in the last three years?

Answer Options	Response Percent	Response Count
Yes	52.1%	50
No	47.9%	46
	<i>answered question</i>	96

Q13. Was the recertification process clear?

Answer Options	Response Percent	Response Count
Yes	58.3%	28
No	41.7%	20
If No, please explain.		18
	<i>answered question</i>	48

Q13. COMMENTS. Was the recertification process clear? If No, please explain.

<i>Count</i>	<i>Description</i>
12	Long and complicated
8	Too many forms or forms confusing
2	Other
22	<i>Total Comments (excluding yes)</i>
18	<i>Total Respondents</i>

Q14. Was the recertification information requested by the Guardian ad Litem Board reasonable?

Answer Options	Response Percent	Response Count
Yes	41.7%	20
No	58.3%	28
If No, please explain.		28
	<i>answered question</i>	48

Q14. COMMENTS. Was the recertification information requested by the Guardian ad Litem Board reasonable? If No, please explain.

<i>Count</i>	<i>Description</i>
21	The process was repetitive, duplicative, complex, too much, and time consuming.
5	Other
26	<i>Total Comments (excluding yes)</i>
28	<i>Total Respondents</i>

Q15. If you contacted the Guardian ad Litem Board for assistance, was the Board helpful?

Answer Options	Response Percent	Response Count
Yes	55.3%	26
No	12.8%	6
Did Not Contact the Board	31.9%	15
If No, please explain.		7
	<i>answered question</i>	47

Q16. Are the Guardian ad Litem Board's requirements for continuing education reasonable (30 credit hours over 3 years)?

Answer Options	Response Percent	Response Count
Yes	62.1%	59
No	23.2%	22
Unsure	14.7%	14
If No, please explain.		33
	<i>answered question</i>	95

Q16. COMMENTS. Are the Guardian ad Litem Board's requirements for continuing education reasonable (30 credit hours over 3 years)? If No, please explain.

<i>Count</i>	<i>Description</i>
7	Cost
12	Too many credits
8	Board should provide or need improved access
6	Other
33	<i>Total Comments (excluding yes)</i>
33	<i>Total Respondents</i>

Q17. Are there adequate options for continuing education including:

Answer Options	Yes	No	Unsure	Response Count
Availability	44	34	13	91
Topics	42	30	17	89
Quality	39	19	29	87
Please provide any additional comments on continuing education.				31
			<i>answered question</i>	92

Q17. Please provide any additional comments on continuing education.

<i>Count</i>	<i>Description</i>
9	More communication about approved CE and need more courses available
4	Cost concerns
19	Other
32	<i>Total Comments</i>
31	<i>Total Respondents</i>

Q18. If you had continuing education approved by the Guardian ad Litem Board, was the approval process:

Answer Options	Yes	No	Unsure	Not Applicable	Response Count
Timely	29	5	6	48	88
Clear	25	9	5	45	84
Consistent	23	7	10	46	86
Please provide any additional comments on the continuing education approval process.					12
					<i>answered question</i> 88

Q19. Have you ever been subject to discipline by the Guardian ad Litem Board or been involved in the Board's discipline process?

Answer Options	Response Percent	Response Count
Yes	9.4%	9
No	90.6%	87
		<i>answered question</i> 96

Q20. Is the Guardian ad Litem Board's discipline process clear?

Answer Options	Response Percent	Response Count
Yes	75.0%	6
No	25.0%	2
If No, please explain.		2
		<i>answered question</i> 8

Q21. Is the Guardian ad Litem Board's discipline process timely?

Answer Options	Response Percent	Response Count
Yes	28.6%	2
No	71.4%	5
If No, please explain.		3
		<i>answered question</i> 7

Q22. Is the Guardian ad Litem Board's discipline process fair?

Answer Options	Response Percent	Response Count
Yes	50.0%	4
No	50.0%	4
If No, please explain.		4
		<i>answered question</i> 8

Q23. Are the Guardian ad Litem Board’s 500 series rules (Ethical Standards and Standards of Practice) adequate to guide the behavior and actions of a guardian ad litem?

Answer Options	Response Percent	Response Count
Yes	67.7%	63
No	10.8%	10
Unsure	21.5%	20
If No, please explain.		22
	<i>answered question</i>	93

Q23. COMMENTS. Are the Guardian ad Litem Board’s 500 series rules (Ethical Standards and Standards of Practice) adequate to guide the behavior and actions of a guardian ad litem? If No, please explain.

<i>Count</i>	<i>Description</i>
3	More guidance on appropriate actions
3	Poorly written or difficult to follow
11	Other
17	Total Comments (excluding yes)
22	Total Respondents

Q24. If you have ever contacted the Guardian ad Litem Board with a general question or a question regarding your role as a guardian ad litem, was the Board:

Answer Options	Yes	No	Not Applicable	Response Count
Responsive	45	9	37	91
Helpful	42	11	36	89
Clear	43	6	39	88
Polite	51	3	36	90
Accurate	40	3	40	83
Please provide any additional comments on your contact with the Board.				15
			<i>answered question</i>	91

Q25. Has the establishment of the Guardian ad Litem Board improved the overall quality of guardians ad litem in the State?

Answer Options	Response Percent	Response Count
Yes	24.7%	22
No	27.0%	24
Unsure	48.3%	43
If No, please explain.		23
	<i>answered question</i>	89

Q25. COMMENTS. Has the establishment of the Guardian ad Litem Board improved the overall quality of guardians ad litem in the State? If No, please explain.

<i>Count</i>	<i>Description</i>
3	Was not a GAL prior to Board
10	Board's processes do not ensure qualified GALs
7	Other
20	Total Comments (excluding yes)
23	Total Respondents

Q26. Should the Guardian ad Litem Board investigate complaints against guardians ad litem while the cases involved are still active in the courts?

Answer Options	Response Percent	Response Count
Yes	41.5%	39
No	34.0%	32
Unsure	24.5%	23
Why or why not?		54
	<i>answered question</i>	94

Q26. COMMENTS. Should the Guardian ad Litem Board investigate complaints against guardians ad litem while the cases involved are still active in the courts? Why or why not?

<i>Count</i>	<i>Description</i>
30	No, it may disrupt the case or be based solely on bias
19	Yes, if the complaint could affect the children or case outcome
6	Court should address ongoing cases
11	Other
66	Total Comments
54	Total Respondents

Q27. In your opinion, does the statutorily required composition of the Board allow for fair credentialing and disciplining of guardians ad litem?

Answer Options	Response Percent	Response Count
Yes	34.0%	32
No	14.9%	14
Unsure	51.1%	48
If No, please explain.		21
	<i>answered question</i>	94

Q27. COMMENTS. In your opinion, does the statutorily required composition of the Board allow for fair credentialing and disciplining of guardians ad litem? If No, please explain.

<i>Count</i>	<i>Description</i>
7	More GALs on the Board
2	More representatives from the Courts
10	Exclude those with bias
6	Other
25	Total Comments (excluding yes)
21	Total Responses

Q28. How could the Guardian ad Litem Board be improved? (Open-ended comments)

<i>Count</i>	<i>Description</i>
18	More Communication/Support for GALs/Availability
12	Board makeup
14	Improve training/Continuing Education Concerns
12	Streamline processes/simplify
17	Other
73	Total Comments
60	Total Respondents

Q29. Please provide any additional comments.

<i>Count</i>	<i>Description</i>
8	Training concern
6	Concern over funding cuts
14	Other
28	Total Comments
27	Total Respondents

**STATE OF NEW HAMPSHIRE
GUARDIAN AD LITEM BOARD**

**APPENDIX C
JUDGES AND MARITAL MASTERS SURVEY RESULTS**

We conducted an online survey of New Hampshire judges and marital masters asking about their use, and experience with, guardians ad litem (GAL) and the GAL Board. Recipients were provided two weeks to respond. Of 80 recipients, 45 provided responses for a 56 percent response rate. Thirty had appointed GALs.

The following summarizes survey results. Open ended questions were only coded and presented if a similar trend or response was identified throughout the comments.

Q1. How long have you been a judge or marital master?

Answer Options	Response Percent	Response Count
< 1 year	0.0%	0
1 - 4 years	11.4%	5
> 4 years	88.6%	39
	<i>answered question</i>	44

Q2. Did you appoint a guardian ad litem to any cases in State fiscal years 2010 and 2011 (July 1, 2009 - June 30, 2011)?

Answer Options	Response Percent	Response Count
Yes	66.7%	30
No*	33.3%	15
	<i>answered question</i>	45

*Respondents selecting No to Q2 were disqualified and appear as skipped responses throughout the rest of the results.

Q3. Approximately how many cases did you appoint a guardian ad litem to in State fiscal year 2011 (July 1, 2010 - June 30, 2011)?

Summary of 28 Responses	Count
Low Appointments	1
High Appointments	125
Average Appointments	41
Median Appointments	35

**Q4. Please identify the case types where you typically appoint guardians ad litem?
Check all that apply.**

Answer Options	Response Percent	Response Count
Abuse and Neglect	57.1%	16
Termination of Parental Rights	42.9%	12
Guardianship	42.9%	12
Adoption	7.1%	2
Divorce	64.3%	18
Parenting Rights and Responsibilities	67.9%	19
Domestic Violence	7.1%	2
Criminal	10.7%	3
Other (please specify)		5
	<i>answered question</i>	28

Q5. In general, did Board-certified guardians ad litem:

Answer Options	Yes	No	Unsure	Response Count
conduct useful investigations	29	0	0	29
understand and comply with court processes	29	0	0	29
prepare useful reports	29	0	0	29
provide useful testimony	29	0	0	29
Please provide any additional comments				7
				<i>answered question</i>
				29

Q6. How often were guardian ad litem reports to the court timely?

Answer Options	Response Percent	Response Count
Always	24.1%	7
Most of the Time	72.4%	21
Some of the Time	3.4%	1
Rarely	0.0%	0
Never	0.0%	0
Unsure	0.0%	0
Please provide any additional comments		5
		<i>answered question</i>
		29

Q7. Have you appointed non-certified guardians ad litem?

Answer Options	Response Percent	Response Count
Yes	14.3%	4
No	75.0%	21
Unsure	10.7%	3
Why or why not?		7
		<i>answered question</i>
		28

Q8. Have you ever reviewed the Guardian ad Litem Board's Gal 500-series rules in any specific case, whether on your own motion or at the request of any party?

Answer Options	Response Percent	Response Count
Yes	50.0%	13
No	50.0%	13
	<i>answered question</i>	26

Q9. Are the Guardian ad Litem Board's Gal 500-series rules adequate to guide the behavior and actions of a guardian ad litem?

Answer Options	Response Percent	Response Count
Yes	73.1%	19
No	0.0%	0
Unsure	26.9%	7
Why or why not?		3
	<i>answered question</i>	26

Q10. Would you report a guardian ad litem to the Guardian ad Litem Board for:

Answer Options	Yes	No	Unsure	Response Count
not following Board 500 series rules	16	2	7	25
not following court rules or written procedures	18	3	4	25
inadequate performance	23	1	2	26
Why or why not?				5
				<i>answered question</i>
				26

Q11. If unhappy with a guardian ad litem's performance, would you appoint the individual again?

Answer Options	Response Percent	Response Count
Yes	4.0%	1
No	68.0%	17
Unsure	28.0%	7
Why or why not?		8
	<i>answered question</i>	25

Q12. Based on your experience, has the Board adequately investigated complaints against certified guardian ad litem?

Answer Options	Response Percent	Response Count
Yes	38.5%	10
No	3.8%	1
Unsure	57.7%	15

Please provide any additional comments. 1
answered question 26

Q13. Should the Board investigate complaints against guardian ad litem while the cases involved are still active in the courts?

Answer Options	Response Percent	Response Count
Yes	46.2%	12
No	11.5%	3
Unsure	42.3%	11
Why or why not?		9
	<i>answered question</i>	26

Q14. In your opinion, has the creation of the Board and its subsequent implementation of application, training, and complaint rules improved the quality of guardian ad litem services in NH courts?

Answer Options	Response Percent	Response Count
Yes	57.7%	15
No	7.7%	2
Unsure	34.6%	9
Why or why not?		4
	<i>answered question</i>	26

**PERFORMANCE AUDITS
ISSUED BY THE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

<u>TITLE OF REPORT</u>	<u>DATE</u>
Division of State Police Forensic Laboratory	September 2011
Employee and Retiree Health Benefit Program	June 2011
Division of State Police Field Operations Bureau	October 2010
Community Mental Health System	July 2010
State Board for the Licensing and Regulation of Plumbers	December 2009
Fuel Oil Discharge Cleanup Fund	December 2009
Bureau of Elderly and Adult Services Medicaid Long-Term Care Program	July 2009
State Liquor Commission	April 2009
State of New Hampshire Service Contracting	March 2009
Department of Resources and Economic Development Division of Parks and Recreation Revenues of the State Park Fund	September 2008
Fleet Management	September 2008
Office of Information Technology	July 2008
State of New Hampshire Succession Planning	July 2008
Board of Medicine	April 2008
Department of Fish and Game	January 2008
Department of Environmental Services Alteration of Terrain and Wetlands Permitting	August 2007
Insurance Department Consumer Protection Functions	August 2007
Department of Education No Child Left Behind Fund Distribution	February 2007

**PERFORMANCE AUDITS
ISSUED BY THE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

<u>TITLE OF REPORT</u>	<u>DATE</u>
Insurance Procurement Practices	September 2006
Enhanced 911 System	January 2006
Department of Education Adequate Education Grant Data	December 2004
Board of Mental Health Practice	November 2004
Home Care for Children with Severe Disabilities	April 2004
Department of Corrections Division of Field Services	December 2003
Judicial Branch Administration	November 2003
Department of Health and Human Services Division of Elderly and Adult Services Home- and Community-Based Care	April 2003
Department of Corrections Inmate Health Care	January 2003
Department of Corrections Sexual Harassment and Misconduct	October 2002
Department of Environmental Services Performance-Based Budgeting	March 2002
Department of Safety Division of Fire Safety	November 2001
Department of Education Construction and Renovation Programs	September 2001
Department of Health and Human Services Division for Children, Youth and Families Foster Family Care	September 2001
Department of Education Bureau of Vocational Rehabilitation and Service Delivery	August 2001
Department of Transportation – Bureau of Turnpikes Performance-Based Budgeting	April 2001

**PERFORMANCE AUDITS
ISSUED BY THE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

<u>TITLE OF REPORT</u>	<u>DATE</u>
Judicial Branch Family Division Pilot Program	January 2000
Year 2000 Computing Crisis Special Report – Update	July 1999
Special Education Catastrophic Aid Program	July 1999
Year 2000 Computing Crisis Special Report	March 1999
Juvenile Justice Organization	November 1998
Marine Patrol Bureau Staffing	March 1998
Health Services Planning and Review Board	January 1998
Economic Development Programs	October 1997
Job Opportunities and Basic Skills Training Program	May 1997
Child Support Services	December 1995
Multiple DWI Offender Program	December 1995
Managed Care Programs for Workers' Compensation	November 1995
State Liquor Commission	July 1994
Property and Casualty Loss Control Program	November 1993
Child Settlement Program	March 1993
Workers' Compensation Program for State Employees	January 1993
Prison Expansion	April 1992
Developmental Services System	April 1991
Department of Administrative Services Division of Plant and Property Management State Procurement and Property Management Services	June 1990

**PERFORMANCE AUDITS
ISSUED BY THE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

<u>TITLE OF REPORT</u>	<u>DATE</u>
Mental Health Services System	January 1990
Hazardous Waste Management Program	June 1989
Review of the Indigent Defense Program	January 1989
Review of the Allocation of Highway Fund Resources to Support Agencies and Programs	March 1988
Review of the Public Employees' Deferred Compensation Plan	December 1987
Review of the Management and Use of State-Owned Passenger Vehicles and Privately Owned Vehicles Used at State Expense	August 1984
Management Review of the Policies and Procedures of the Division of Plant and Property Management	June 1984

Copies of previously issued reports may be received by request from:

State of New Hampshire
Office of Legislative Budget Assistant
107 North Main Street, Room 102
Concord, New Hampshire 03301-4906
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