

Be The Voice For A Child



The Volunteer Voice

Summer 2011 Newsletter

NC Guardian ad Litem Program for Surry & Stokes Counties

Make a Wish!

We're excited to let you know that we've recently partnered with the non-profit organization [One Simple Wish](#) (OSW). OSW posts the wishes of foster children from around the country on its website, where anyone can review and grant those wishes. Wishes can be anything from clothes, shoes and diapers, to concert tickets, karate lessons and laptop computers.

If you work with a child who needs or wants something that cannot be provided by DSS or the foster parents, consider posting a wish on behalf of that child. There's no guarantee that every wish will be granted, so to avoid disappointment, it's probably best not to let the child know that his or her wish is being posted.

Posting a wish is easy. Just contact Linda Devine and provide the child's name (only first names are posted on the website), age, the wish, and any brief explanation that you'd like to share with potential wish-granters. Of course, feel free to visit [OSW](#) and grant a wish as well!



What Every GAL Needs to Know About Discovery

You've probably heard the legal terms "discovery" and "attorney/client privilege," but you may not be aware that these terms can apply to information that a GAL develops during the course of a case. Discovery means that parties in a legal case can request access to files and other information from opposing parties. The most notable exception to discovery is information that is protected by attorney/client privilege, meaning that a party does not have to share information communicated with his or her own attorney. *(continued on p. 2)*

Summer 2011 Newsletter

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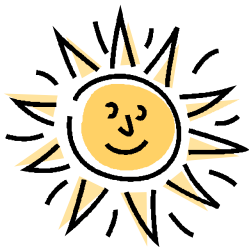
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Recently in a Stokes county case, a parent's attorney requested a copy of the DSS files. Among other information, the files contained emails between the GAL volunteer and the social worker, some of which were read in court. While this did not impact the outcome of that particular case, it's a good reminder that emails and just about everything else a GAL writes are subject to discovery by the various parties involved in a case.

All emails about a case, except those sent to or from the GAL attorney, are potentially discoverable by the parents' attorneys. Files kept by DSS, the GAL office, and even a GAL's personal notes concerning the case can be subject to discovery.

As a practical matter, parents' attorneys rarely request this information. However, it's wise to keep in mind that they may request and be granted access to it, so we all need to be thoughtful about what we put in writing, both in emails and our own notes.

Got questions? Contact Linda Devine or GAL attorney, James Freeman, for more information.



Individualized Education Plans: The Role of the GAL

Attorney Deana K. Fleming with the Administrative Office of the Courts, Guardian ad Litem Services Division, recently wrote an opinion about the proper role of a GAL when a child needs an Individualized Education Plan (IEP).

Federal law requires that children with disabilities receive free public education that is appropriately tailored to meet individual needs. This begins with a multi-disciplinary evaluation of the child to determine his or her needs and then the creation of an IEP to meet those needs. A GAL may initiate the process and request that a child be evaluated.

When an IEP is in place, regular meetings to evaluate the plan and the child's progress are required. Ideally, the child's parents also participate in these meetings, but for children in foster care, the law requires that the school appoint a surrogate parent for purposes of participating in the IEP meetings.

The law prohibits DSS from acting as a surrogate parent and at times, school personnel may request that the GAL fill that role. While GALs may participate in the IEP meetings and are not expressly prohibited from filling the role of a surrogate parent, Ms. Fleming strongly advises against doing so for several reasons:

1. The GAL is already fulfilling the role of court appointed advocate for the child. The responsibilities of a surrogate parent are different than those of the GAL

(continued on p. 3)

Summer 2011 Newsletter

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(continued from p. 2)

and can be seen as outside the scope of statutory duties. As a result, the liability shield that normally covers a GAL may not apply to educational decision-making, thus opening up a well-intended volunteer to civil liability.

2. Acting as surrogate parent can be seen as a "service provider" role. As court appointed advocates, GALs may not directly provide services.

3. Under state and federal law, it is the responsibility of the State Board of Education to establish procedures for appointing a surrogate parent.

4. GALs may not be well versed in special education needs and there is no training to prepare a GAL for this role.

The bottom line is that GALs:

- MAY request that a child be evaluated for an IEP;
- MAY participate in IEP meetings in their role as a GAL;
- SHOULD NOT take on the role of surrogate parent for IEP purposes.

Please Remember to...

- Stay involved with your case.
- Visit your child at least once a month.
- Schedule visits in advance instead of waiting until the last minute.
- Keep in touch with the social worker on a regular basis through phone calls or emails.
- Give yourself plenty of time to write your court report.

Contact Information

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