

# Q&A

## The Role of a Child Advocate



**Q.** I heard that Child Advocates are now guardians *ad litem*. Does this change the role of a Child Advocate?

**A.** Pennsylvania's Juvenile Act has been amended to require that a guardian *ad litem* be appointed in Dependency Proceedings to represent both the "legal" and "best" interests of the child. This should not be a real change from the practice at the Support Center for Child Advocates where we have traditionally served as both counsel and guardian *ad litem*.

**Q.** Does this mean that we only represent what is best for the child, regardless of the child's desires?

**A.** No. The Act mandates that the GAL advise the Court of the child's wishes and present whatever evidence exists to support those wishes. Furthermore, a difference between the child's wishes and the GAL's recommendations on the child's best interests is not considered a conflict of interest.

**Q.** What should the Child Advocate do when the child's wishes are contrary to his/her best interests?

**A.** This issue often arises, especially with teens. At the Support Center, we are often able to help the child see and want what is best for him or her. We also realize that children (like adults!) "vote with their feet," by obstructing a plan or running away from a situation they do not like. Sometimes we need to reach a realistic compromise. If we cannot resolve the conflict with the child, Advocates involved in dependency hearings are now expected to make recommendations on the child's needs, state the child's desires, and present evidence for both positions, if available.

**Q.** Does this mean that our conversations with our child clients are not confidential?

**A.** Yes. The lawyer-client role traditionally involves a confidential relationship with privileged communication, but the GAL may not be entitled to the privilege. In fact, the GAL's recommendations might even reveal client confidences. The rules for this apparent conflict have not yet been resolved.

**Q.** What are legal interests?

**A.** Legal interests are those entitlements and benefits which make up the law of the case. According to the ABA *Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases*, "[t]he determination of the child's legal interests should be based on objective criteria as set forth in the law that are related to the purposes of the proceedings." In our practice, legal interests might include: an expeditious resolution of the case, placement of the child in a nurturing home, planning for reunification (if possible), permanency planning, securing treatment or supportive services, or placement in the least restrictive environment.

**Q.** Has the role changed in other ways?

**A.** The statewide changes in law now call for all Child Advocates to meet regularly with their child clients, acquire treatment and school records, participate in hearings and service planning sessions, and interview and present witnesses.

**Q.** Where can I find the amendments?

**A.** The new law, Act 18 of 2000, can be found in Pennsylvania's statutes, 42 Pa.C.S.A 6311, Act 18 of 2000 or as Senate Bill 380 (Printer No. 1895) in the Electronic Bill Room at [www.legis.state.pa.us](http://www.legis.state.pa.us). Support Center Staff Attorneys can provide a copy and try to answer your questions. We will also address the changes in our updated Manual *How to Handle a Child Abuse Case*, to be distributed at the PBI/PBEC Volunteers Training Workshop on October 19, 2000. Sign up now!

Do you have questions about children's law, practice or services? Call the Support Center for consultation with a Staff Attorney or Social Worker, drop us a line, or visit our new website, [www.advokid.org](http://www.advokid.org) We'll answer your question in a future issue of *AdvoKids*