

**PROTOCOL FOR APPOINTMENT BY THE JUVENILE COURT  
OF A GUARDIAN AD LITEM FOR A NONMINOR DEPENDENT**

This protocol outlines the procedures to be followed when it appears that a nonminor dependent ("NMD") may be incompetent for purposes of Welfare and Institutions Code section ("WIC §§") 317(e)(1), 361(a)(1)(A), or 361.22. This protocol does not apply to the competency determination required under WIC § 358(d) and California Rules of Court ("CRC"), rule 5.697, or when the competency of a NMD is at issue in any proceeding-outside the San Diego Superior Court, Juvenile Division.

For purposes of this protocol, a NMD is a youth as defined by WIC § 11400(v).

1. The court may sua sponte initiate a competency determination of a NMD. Any party, counsel, or interested person who believes a competency determination of a NMD is needed may file a written motion on pleading paper or make an oral request at a hearing where all parties are present.
2. The court will determine the NMD's competency and legal capacity to make decisions pursuant to Code of Civil Procedure § 372, Probate Code §§ 810-813, and CRC, rules 5.618(e)(1)(D) and 5.697(c)(3).
3. The court has discretion to determine how it will conduct a competency determination. If the NMD is capable of communication, either verbally or by other means, the NMD shall be given the opportunity to inform the court of their position on the appointment of a guardian ad litem ("GAL"). The court may directly inquire of the NMD. The court also may rely on documentary evidence (e.g., a court order appointing a conservator for the NMD) and/or sworn testimony by persons having relevant information.

If the NMD has complex medical needs requiring additional coordination to secure the NMD's presence for the court's inquiry, the court will inform the parties and counsel of how it intends to proceed before conducting the competency inquiry.

4. If after inquiry the court finds the NMD is incompetent and in need of a GAL for purposes of the Juvenile Court case, the court will consider the input of parties, counsel, and other interested persons to identify a potential GAL. Upon confirmation that the identified person is willing and able to serve as GAL, the court will appoint that person as the GAL for the NMD.
5. The GAL must be willing and able to perform any of the following duties, if appropriate under the circumstances:

- a. Make all necessary inquiries and investigations to determine the wishes, best interests, and positions of the NMD for the purpose of informing and directing the NMD's attorney,
  - b. Provide input on placement decisions under WIC § 361.22 and CRC rule 5.618(e)(1),
  - c. Make educational or developmental services decisions under WIC § 361(a)(1)(A),
  - d. Maintain communication with the NMD's attorney, social worker, and, if applicable, caregiver, Indian tribe, or CASA, and/or
  - e. Work closely with the NMD's attorney to protect the rights and interests of the NMD.
6. After the appointment of a GAL, any party, counsel, or interested person(s) may request that the court reassess the NMD's competency, or the court sua sponte may conduct a reassessment.
  7. Any party, counsel, or interested person(s) may request that the court assess a new person to assume the role of the NMD's GAL, or the court sua sponte may assess a new person to serve as a successor GAL.
  8. The GAL may be relieved (1) at the request of the GAL, (2) when the court finds that the NMD has regained competency, (3) when the court finds that a different person should be appointed as GAL, or (4) upon termination of the court's jurisdiction over the NMD.

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