



CASA/CJA Advisory Committee Guidance Policies for Court Appointed Special Advocate Programs

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Guidance Policy on Appropriate Roles and Activities for CASA Volunteers

The Code of Virginia states the following regarding the duties to Court Appointed Special Advocates who have been appointed to a case:

§ 9.1-153. (Effective October 1, 2001) Volunteer court-appointed special advocates; powers and duties; assignment; qualifications; training.

A. Services in each local court-appointed special advocate program shall be provided by volunteer court-appointed special advocates, hereinafter referred to as advocates. The advocate's duties shall include:

- 1. Investigating the case to which he is assigned to provide independent factual information to the court.*
- 2. Submitting to the court of a written report of his investigation in compliance with the provisions of § [16.1-274](#). The report may, upon request of the court, include recommendations as to the child's welfare.*
- 3. Monitoring the case to which he is assigned to ensure compliance with the court's orders.*
- 4. Assisting any appointed guardian ad litem to represent the child in providing effective representation of the child's needs and best interests.*
- 5. Reporting a suspected abused or neglected child pursuant to § [63.1-248.3](#).*

CASA volunteer case activities should be linked to one of the five codified duties described above. If the activity is not directly related to performing one of these duties, the volunteer should not engage in the activity. Examples of inappropriate activities include:

- taking the child shopping;
- arranging for outings to events such as the circus or ballgames;
- giving gifts to the child or family (beyond what has been authorized by the CASA Program); and
- providing for basic needs of the family.

CASA volunteers are not assigned as mentors and should not function as such. If a child needs a mentor, this should be included in the recommendations section of the CASA report .

Further, CASA volunteers should not engage in providing direct services to children or families. The regulations state: *6VAC20-160-80(B) CASA volunteers should not become inappropriately involved in the case by providing direct service delivery to any parties that could (i) lead to conflict of interest or liability or (ii) cause a child or family to become dependent on the CASA volunteer for services that should be provided by other agencies or organizations.*

Examples of direct services include:

- providing supervised visitation,
- conducting home studies;
- providing tutorial services; and
- providing transportation to appointments.

Each local CASA program has policies and procedures that direct the activities of CASA volunteers. Effective volunteer supervision will help to minimize potential risk management concerns. Programs are advised to adhere to the code, regulations and local program policies that govern CASA volunteer activities, responsibilities and roles.

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Guidance Policy on the Use of CASA Volunteers in Circuit Court

The CASA/CJA Advisory Committee has examined the issue concerning the appointment of CASA volunteers in Circuit Court proceedings. The following guidance policy is recommended to local CASA programs in Virginia based upon guidance from the Attorney General's office.

CASES ON APPEAL FROM THE JUVENILE & DOMESTIC RELATIONS DISTRICT COURT

When cases are appealed to the Circuit Court from the Juvenile and Domestic Relations District Court and CASA has been appointed in the Juvenile Court proceedings, CASA volunteers may be re-appointed at the Circuit Court. CASA programs are advised to accept the case only if a formal appointment has been made with a new court order that is signed by the Circuit Court judge.

CASES THAT ORIGINATE IN CIRCUIT COURT

Unless it is a juvenile court case on appeal,, a Circuit Court order of appointment is not valid because the Code does not give a Circuit Court judge authority to appoint CASA volunteers except on cases that have been appealed from the Juvenile and Domestic Relations District Court [§16.1-296(l)].

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Guidance Policy on Confidentiality and Information Sharing

After careful review and consultation with the Office of the Attorney General, the following guidance is provided by the Department of Criminal Justice Services to local Court Appointed Special Advocate Programs (CASA) operating in Virginia.

1. CASA volunteers have access to records and information related to the child upon presentation of a valid court order of appointment (VAC §9.1-156(A)).
2. CASA volunteers may share information gathered on the child with the Guardian ad litem § 9.1-153 (A)(4).
3. CASA volunteers must obtain a release of information from a parent/guardian in order to access any information related to that individual. Further, if the CASA volunteer intends to share that information outside of the official court report, the release of information form must specifically state with whom this information may be shared.
4. With the exception of the release permitted under #2 and #3 above, CASA volunteers should not share information with any professional not identified on the release of information form.
5. CASA programs are encouraged to obtain release of information forms to allow for the sharing of information with the Department of Social Services. CASA programs are also encouraged to use the sample release of information form distributed with this guidance policy. Programs are also advised to address specific needs of local agencies related to information sharing as they arise. (see sample release form)
6. CASA programs must adhere to the Code when distributing CASA Court Reports. The Code of Virginia states the following regarding the distribution of CASA Reports:
7. Programs are advised to not release documents and records obtained during the investigation.

§ 16.1-274. Time for filing of reports; copies furnished to attorneys; amended reports; fees.

A. Whenever any court directs an investigation pursuant to subsection A of § [16.1-237](#), § [16.1-273](#), or § [9.1-153](#), or an evaluation pursuant to § [16.1-278.5](#), the probation officer, court-appointed special advocate, or other agency conducting such investigation shall file such report with the clerk of the court directing the investigation. The clerk shall furnish a copy of such report to all attorneys representing parties in the matter before the court no later than

seventy-two hours, and in cases of child custody, 15 days, prior to the time set by the court for hearing the matter. If such probation officer or other agency discovers additional information or a change in circumstance after the filing of the report, an amended report shall be filed forthwith and a copy sent to each person who received a copy of the original report. Whenever such a report is not filed or an amended report is filed, the court shall grant such continuance of the proceedings as justice requires. All attorneys receiving such report or amended report shall return such to the clerk upon the conclusion of the hearing and shall not make copies of such report or amended report or any portion thereof. However, the chief judge of each juvenile and domestic relations district court may provide for an alternative means of copying and distributing reports or amended reports filed pursuant to [§ 9.1-153](#).

This particular Code section allows for an alternate means of distribution of court reports. If a CASA program is going to engage in an alternate means of distribution of CASA reports, DCJS encourages CASA programs to obtain this distribution policy in writing from the Chief Judge of the Juvenile and Domestic Relations District Court. Further, as this subsection of the Code indicates, copies of the reports can only be distributed to attorneys and any alternative distribution plan should be inclusive of all parties involved in the case.

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Guidance Policy on Courtesy Home Visits

CASA programs throughout Virginia are frequently asked to provide courtesy home visits to children who are placed in Virginia from other states. The CASA/CJA Advisory Committee has examined this issue and makes the following recommendations in an effort to provide local CASA programs with guidance regarding a response to such requests.

CASA Programs in Virginia are advised to decline requests for courtesy home visits. The interstate compact process, administered by the Virginia Department of Social Services, is the appropriate vehicle for accessing such a service. CASA volunteers/staff have no authority to investigate any matter other than those that have been assigned through a Virginia court of competent jurisdiction. Further, CASA staff and volunteers in Virginia cannot operate in an official capacity in any matter without a valid court order. A court order from another state will not suffice as a “valid court order” for CASA appointment. There is considerable concern for the liability of CASA programs, volunteers and staff when engaging in the practice of providing such visits.

Resources

The Commissioner of the Virginia Department of Social Services, through the Division of Family Services, is responsible for approving and monitoring interstate placements of children. For further information about a specific state's procedures, requirements, interpretations and ICPC applications, e-mail vaicpcoffice@dss.virginia.gov. or call 804-726-7581 or 804-726-7582

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Guidance Policy on the Use of CASA Volunteers in Custody Related Cases

The use of CASA volunteers in Juvenile and Domestic Relations District Court custody cases is an acceptable practice. CASA programs are encouraged to only accept appointments to custody cases if a Guardian ad litem has also been appointed. Local programs should ensure that all cases will comply with the Code of Virginia, Section 9.1-151 (A) which states *“The Program shall provide services in accordance with this article to children who are subjects of judicial proceedings involving allegation that the child is abused, neglected, in need of services or in need of supervision, and for whom the juvenile and domestic relations district court judge determines such services are appropriate.”*

The definition of “allegation that the child is abused, neglected, in need of services or in need of supervision” may include the following factors:

1. There is a past founded allegation of abuse or neglect which identifies a primary caregiver of the child as the perpetrator.
2. There is a current complaint which has been referred to or is being investigated by the local Department of Social Services.
3. There is information presented during the court process which would indicate that the child may be abused or neglected, including emotional abuse.
4. The child appears to be in need of special services or supervision which are not currently being provided.

Local Programs are encouraged to develop written policies and protocols in consultation with the Juvenile and Domestic Relations District Court Judge(s) on the acceptance of CASA appointments to custody related cases. These policies and protocols should address the following issues:

1. Criteria the program will use to define what constitutes an “allegation of abuse or neglect”.
2. As identified in the Rules and Regulations governing CASA programs, policies should be in place which articulates the priority of acceptance of cases assigned to CASA volunteers.

Finally, local CASA programs must remain cognizant of funding sources which will not fund activities which are not related to abuse and neglect cases (i.e. VOCA funding will only fund cases which have an active DSS investigation or a finding of abuse and neglect). Programs must evaluate the numbers of children served and the ability of the program to fund such services.

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Guidance Policy for Managing Staff Vacancies in CASA Programs

The regulations require that programs provide one FTE for every 30 volunteers actively assigned to cases. When a vacancy occurs in a program, particularly if it is sudden, this can be problematic for local programs. The following suggestions are offered to serve as a guide for local programs to manage this transition effectively and to maintain compliance with the regulations.

- In programs where there is only one staff person, the local program is encouraged to adopt a policy that requires a minimum of 30 days notice.
- Local programs are encouraged to establish procedures that will allow for an efficient and timely hiring process.
- If there is a vacancy and the hiring process does not get completed prior to the staff member's departure, the Executive Committee of the operating Board of Directors should consider the following options:
 1. Notify DCJS immediately of any pending staffing changes.
 2. If existing staff is insufficient to accommodate the need, cease to accept any new referrals.
 3. Explore the potential of recruiting a mature volunteer who could manage a portion of the supervisory responsibilities during the interim.
 4. Meet with the judge to discuss the status of the program, particularly the timeline for hiring a new staff member.
 5. If the program is structured under an umbrella agency, consider utilizing other staff members to serve on an interim basis.
 6. Request technical assistance from DCJS to assist in the hiring and/or training of a new staff member.
 7. Communicate with the volunteers on a regular basis and keep them informed of the programs status and plans.

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Guidance Policy on Monitoring Cases after Court Closure

Many CASA programs are requested to provide “monitoring services” to assigned cases after the court closes the case. This presents several challenges. The following guidance is provided to programs that receive these requests.

- CASA programs should not accept monitoring appointments when the case is closed. Best practice would indicate that programs should not continue “monitoring” cases once the court has removed the case from the docket. If there are concerns or problems that arise, since CASA does not have “party status”, the CASA volunteer has no means of getting the case back into court apart from directly filing a petition. This is never a preferred option since it places CASA in an “adversarial” posture and thus hinders the independent, objective, fact finding function of CASA. Often the Guardian ad litem has been relieved of duties as well and cannot be a resource for filing petitions with the court. The only recourse is to report concerns to the Department of Social Services which may or may not bring them to the attention of the court. Given these circumstances, the assignment of “monitoring” duties once a case is closed by the court, gives a false impression that the case/children have effective court oversight.
- If despite the above the court insists on monitoring, programs are advised to develop policies that include keeping the case open for the duration of the monitoring assignment. Further, DSS and the GAL shall also remain active on the case until the monitoring is completed. Monitoring orders shall include a case closure date in the future in the absence of new allegations or concerns.

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Guidance Policy on the Role of CASA Volunteers When Termination of Parental Rights is Achieved

Permanency in the lives of the children that CASA programs serve is a primary goal. CASA programs seek to ensure that children have the opportunity to grow up in safe, permanent homes. The CASA/CJA Advisory Committee has examined the issue of what the role of the CASA volunteer should be once Termination of Parental Rights (TPR) is achieved. Many CASA programs close cases at this point in the process most often because of the lack of volunteers and the need to assign them to cases that are on a waiting list. Other programs strongly advocate that permanence is not achieved until the child's adoption is complete. Questions arise however, around what the role of the CASA volunteer is during the adoption phase. After careful review of this issue, there is not a clear, "one size fits all" response for every case a CASA volunteer will be assigned to. Each case will be different. First and foremost, the CASA volunteer's continued appointment is a judicial decision. Once the judge has determined that CASA will continue to be appointed, the CASA program director will need to evaluate each case based on the unique needs and circumstances of that case. This being true, there are some general guidelines the Advisory Committee would like to offer to programs for consideration as they continue to serve on cases beyond TPR.

- When children are placed in adoptive homes, care and consideration should be given to the developmental needs of the child and the impact of continued involvement of the CASA Volunteer. At a time when the focus is on bonding and attachment with adoptive parents, the presence of the CASA Volunteer *may* indicate to the child continued instability. The role of the CASA Volunteer with the adoptive parents needs to be clear and it is not to "investigate or monitor" the adoptive parents' home. Further, it is clearly the role of the Department of Social Services to identify and monitor adoptive placements.
- CASA Volunteers can assist in monitoring the filing of the Adoption Progress Reports, ensuring that they are properly completed every 6 months, and achieving the directives of the court.
- If it is in the child's best interest, CASA volunteers should continue to visit the children they are assigned only as long as necessary to facilitate transition to permanency. Depending upon the developmental needs and circumstances of the child, it may be best to reduce the number of visits so that the adoptive parents can begin to establish stability and permanency for the child.

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Guidance Policy on the Ratio for Assignment of CASA Cases to Staff

There are instances when it is appropriate for a CASA staff member to serve as the assigned advocate to a particular case. Current regulations provide specific guidance for programs on this subject (6VAC20-160-40(D)(2)). If a staff member is serving as the advocate on a significant number of the cases served by the program, then the program is not really functioning as a CASA program. It becomes another service agency and loses the unique quality that is inherent to the volunteer nature of CASA. The following guidance is therefore provided to local CASA programs to assist in managing this issue.

- Staff members should adhere to the same regulatory ratio requirement as volunteers, which is 2 children or two sibling groups - 6VAC 20-160-40(C)(1).
- Staff members who serve as CASA advocates for particular cases should NOT include their hours in volunteer hours which are calculated and reported each quarter and annually. (It is suggested that these actual case hours be tracked separately if the program has use for this statistic.)
- Staff who are functioning in the role of an advocate (paid or unpaid) should be counted and reported in the number of “active volunteers” for the purposes of staff to volunteer ratio calculations.

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Guidance Policy on the use of Transportation in local CASA Programs

The CASA/CJA Advisory Committee reviewed the Transportation Policy and made the following changes:

CASA Programs are advised to adopt policies that do not allow volunteers to transport children and/or any person related to the case under any circumstances. CASA programs that permit transportation may incur considerable liability and potential litigation that would divert resources from the advocacy work with children.

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