

# Child's Involvement

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graph TD; A[Child's Involvement in Court Case] --- B[Subject of the Action]; A --- C[Party]; A --- D[Other];
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Child's Involvement  
in Court Case

Subject of the Action

Party

Other

# Not Unique to A/N/D

## Mandatory Court Involvement

- Delinquency
- Undisciplined
- Emancipation
- Judicial Waiver
- Judicial Review of Psychiatric Admission
- Adoption (12+ unless waive)
- Subpoena (e.g., victim of crime)
- Parentage (genetic testing)

## Optional Court Involvement

- Voluntary witness
  - Chapter 50 custody
  - DVPO
  - Other actions
- Attendance only
  - Lack of child care

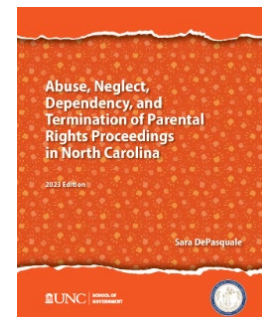
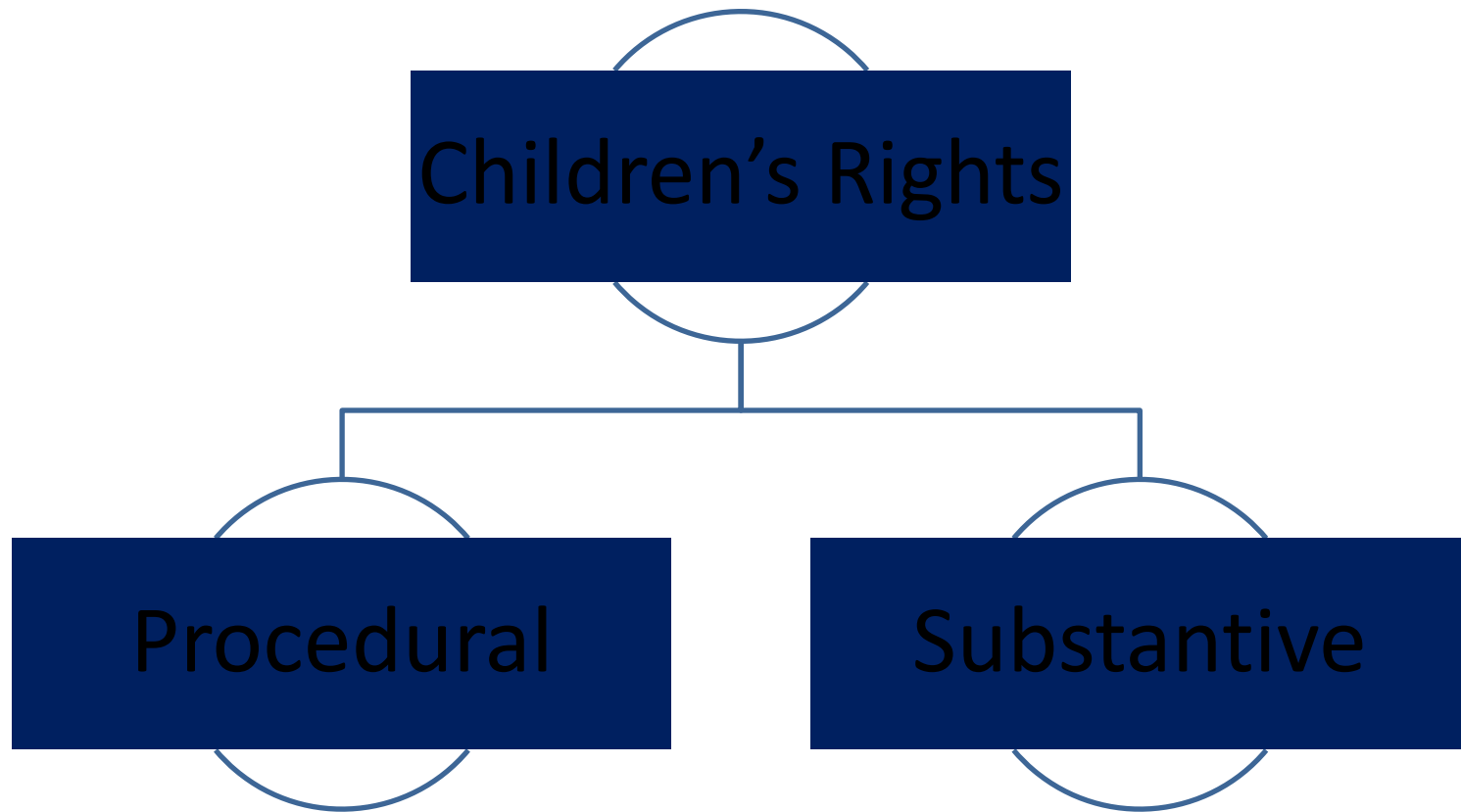
# Purpose of Juvenile Code



7B-100

What  
Does It  
Say  
about  
the  
Child?

7B-900



Chapter 2.3.C  
& Throughout

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Represented by a  
G.S. 7B-601 GAL

## Team

- Volunteer
- Staff
- Attorney  
Advocate



# Best Interests Representation

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# AOC-J-207

**STATE OF NORTH CAROLINA**

File No.

County

In The General Court Of Justice  
District Court Division

**IN THE MATTER OF:**

Name And Address Of Juvenile(s)

**ORDER TO APPOINT OR RELEASE  
GUARDIAN AD LITEM  
AND ATTORNEY ADVOCATE**

G.S. 7B-601, -1108

Name And Address Of ☐ Mother ☐ Other (Designate)

Name And Address Of ☐ Father ☐ Other (Designate)

**ORDER OF APPOINTMENT**

Pursuant to the authority contained in G.S. 7B-601 or 7B-1108, the following Guardians ad Litem and attorney advocate are appointed to represent the juvenile(s) named above in this proceeding.

Name Of Guardian Ad Litem Volunteer

Name And Address Of Attorney Advocate

Name Of Guardian Ad Litem Program Staff

Address

☐ Attorney Advocate is also acting as Guardian ad Litem.

Telephone No.

Telephone No.





MUST IF ABUSE OR  
NEGLECT



MAY IF DEPENDENCY ONLY

# Conflict of Interest

Member of the  
district bar\*

Dual  
appointment

## 2022 FORMAL ETHICS OPINION 1

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### ATTORNEY SERVING DUAL ROLE OF GUARDIAN AD LITEM AND ADVOCATE

*Adopted: April 22, 2022*

*Opinion rules that an attorney appointed by the court as the **guardian** ad litem and the attorney advocate in an abuse, neglect, and dependency proceeding may not testify as a witness unless directed to do so by the court.*



## New Ethics Opinion on Dual Role GAL–Attorney Advocates in Juvenile Proceedings



This entry was contributed by Timothy Heinle on August 17, 2022 at 10:45 am and is filed under Child Welfare Law, Juvenile Law, Social Services.

*This post was updated on September 6, 2022 in response to helpful reader feedback regarding the nuances that exist when determining whether there is a conflict of interest for a GAL program and, if so, the possible options available to cure that conflict. The amended portion can be found in the Conflicts of Interests section below.*

The State Bar has issued an ethics opinion discussing the role of attorneys who are appointed as a guardian ad litem (GAL) volunteer, GAL attorney advocate, or both, in juvenile abuse, neglect, dependency or termination of parental rights matters. See [N.C. State Bar, Formal Ethics Opinion 1 \(2022\)](#), hereinafter 2022 FEO 1. While the opinion does not specifically mention termination proceedings, G.S. 7B-601—the statute that details the duties of a GAL in an abuse, neglect, dependency matter—also applies to GALs in termination proceedings. G.S. 7B-1108. 2022 FEO 1 should be considered as applying to GAL appointments in both juvenile and termination proceedings. This ethics opinion places new obligations on the appointed attorney and includes a role for the district court judge making the appointment. Typically, the attorney appointed to serve as both GAL attorney advocate and volunteer is an attorney known to the juvenile court for representing parents. The guidance provided in 2022 FEO 1 is important for parent attorneys and all other court actors in juvenile proceedings.

# Duties

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Investigate

Investigate to determine facts, needs, resources

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Follow up

Follow up investigations to ensure court orders being followed

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Report

Report to court when juvenile's needs not met

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Relay

Relay child's express preference to court\*

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# Duties

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Protect

Protect juvenile's rights  
throughout proceedings

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Facilitate

Facilitate settlement of  
disputes

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Offer

Offer evidence and examine  
witnesses at adjudication

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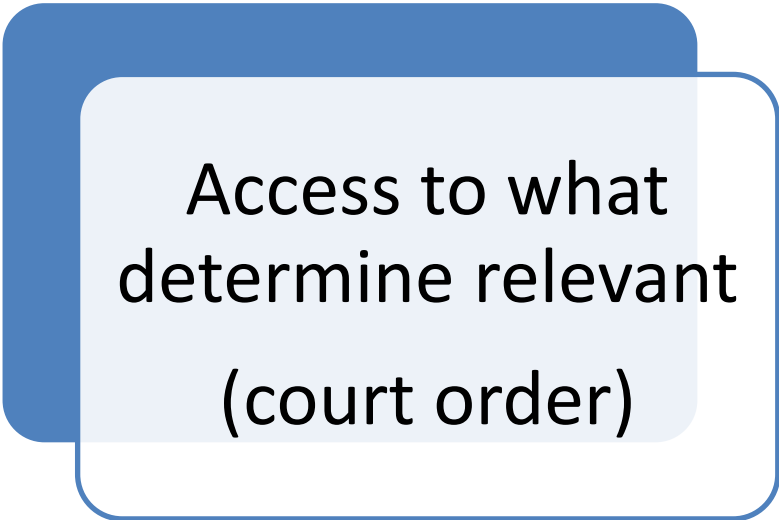
Explore

Explore options at  
dispositional hearings

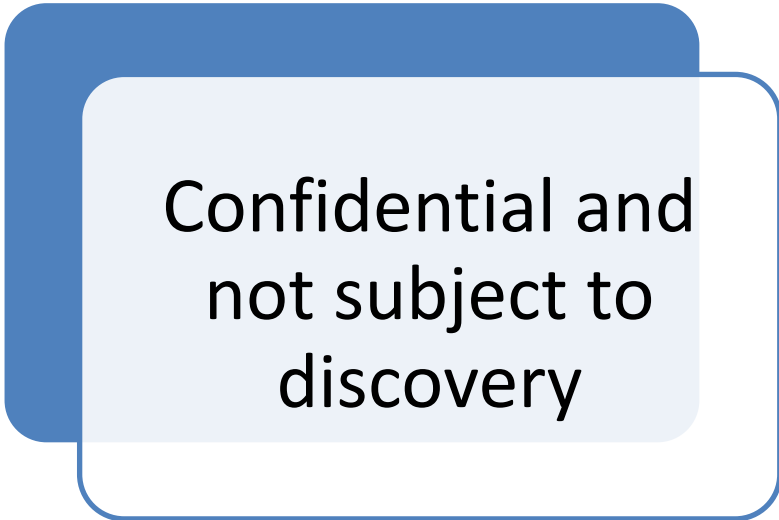
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# Information



Access to what  
determine relevant  
(court order)



Confidential and  
not subject to  
discovery

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# Must receive evidence at disposition

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*In re S.D.H.*, 296 NC App 392 (2024)

# Statutory Review: Procedural Rights

## The Child's Involvement: Selected Review of Statutes, A/N/D course

PARTY STATUS	
G.S. 7B-401.1(f) G.S. 7B-401.1(i)	The juvenile <i>shall</i> be a party in an abuse, neglect, or dependency action. For G.S. 7B-910.1 hearings (for the Foster Care 18-21 program), the young adult in foster care is a party.
G.S. 7B-601(a)	<p>The juvenile is a party in all actions under this Subchapter. Actions under Subchapter I include the following:</p> <hr/> <hr/> <hr/>
G.S. 48-3-601(1) GS 48-3-603(b)(2) G.S. 48-1-101(11)	The consent of the adoptee who is 12 or older must be obtained unless the court hearing the adoption determines it is not in the child's best interest to require the child's consent. A party to an adoption includes the adoptee whose consent is required but has not been obtained.
REPRESENTATION	



# Guardian ad litem



*Standing in the Shoes of the Child*

Is it always sufficient by itself?

# What does it mean to be a party?

- Receive notice
- Opportunity to be heard
- File pleadings/request relief
- Offer evidence/examine witnesses
- Facilitate settlement
- Appeal

Dependent Child: How do they participate?

G.S. 7B-601(a)

Duties listed, including BIC

*In re J.C.-B.*, 276 N.C. App. 180 (2021)



Best  
Interest

The diagram consists of two blue arrows pointing in opposite directions. The left arrow points left and contains the text 'Best Interest'. The right arrow points right and contains the text 'Express Preference'. The two arrows are connected at their inner ends by a white, curved line that resembles a ribbon or a piece of paper being folded over, suggesting a connection or a process between the two concepts.

Express  
Preference

# KIDS



## beyond **BENCH** podcast



The Child's Voice in Court: The Role of the Guardian ad Litem



KIDS



# Recognition of Older Youth Preference

## You determine the weight



### Q13 Speech to Judge.

At the End of the School yr u find out you're gonna Spend the Summer At home with your family. you immediately Start packing and planning out Every single day. ~~and~~ now a Court date is here. All I ASK is to Stay At home because this is where I belong Every Kid shouldn't have to worry if they're gonna see their parents Again. So As A late Birthday gift I wish to Stay home with the people I love and cherish Every second of the day. Thank you your honor for hearing me out.

# Age Out

- Do you recognize it?







What about other  
events?

# What's Happening Outside of Court?

- Observe/Interview child (7B-303(a))
  - Possible police interview (7B-307)
- Removal possibly
- School change possibly (ESSA)
- Counseling



# Youth Involvement in Case Planning

- NC Policy: member of Child & Family Team
- Mandatory under federal law at age 14
  - Plan developed in consultation with child
  - Teen's option, up to 2 members of case planning team chosen by teen (not foster parent or case worker)
  - 1 of those designated as teen's advisor/advocate re: reasonable and prudent parent standard

# KIDS



## beyond **BENCH** podcast

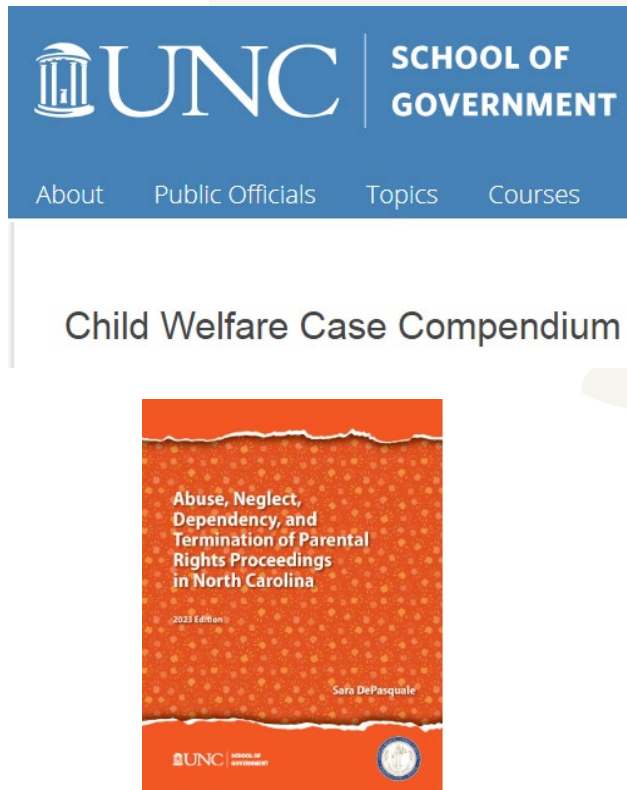


The Child's Voice in Court: The Role of the Guardian ad Litem

KIDS



# When Else May a Child Need to Participate?



## Chapter 11.2 Child Witnesses



# Keep KIDS in Mind

User friendly courtroom tips

Prioritize the day's  
court calendar



## What Else Can You Do?



Benchmark