

**CHAPTER 12**  
**CULTURAL COMPETENCY**

# **CULTURAL COMPETENCE**

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## **INTRODUCTION**

The Guardians ad Litem (GAL) will work with professionals and families from diverse cultural and socio-economic backgrounds. Their responsibilities span over a variety of functional areas such as investigation; interviewing; report writing; testifying in the court; communicating with children and family members; collaborating with other professionals involved in the case; assisting the court in decision making including specific recommendations for court action based on the findings of the interviews and independent investigation.

The following awareness, knowledge and skills enable the GALs to perform their duties effectively:

- ◆ knowledge of their cultural heritage and upbringing and how it shaped their world views and personal biases
- ◆ willingness to challenge and transform their world views and biases with the belief that change is necessary and positive ( Pope and Reynolds, 1997)
- ◆ awareness of the impact of their worldviews and behavior on their perception of people with different cultural backgrounds
- ◆ actively seek out educational experiences to increase knowledge of diverse cultures in the contexts of history (trail of tears: American Indians; slavery, Asian American immigration; GI Bill; etc.) and the socioeconomic (poverty, gentrification, etc.) status
- ◆ recognize the role of a person's identity ( race, ethnicity, religion, sexual orientation, ability, age, etc.) and socio-economic status in his or her experiences, family structure, functioning and child rearing practices
- ◆ recognize the institutional barriers (such as lack of health care; lack of legal sanction for second parent adoption by same-sex parents) in the society and how they may limit access to opportunities to minority populations which in turn may affect their family structure and child rearing practices; behavior and functioning
- ◆ recognize the impact of racism on the domestic violence
- ◆ mindful of personal biases and power hierarchies in their working relationships with children and families
- ◆ acquire the ability to go out of personal comfort zone in communication and developing trust-based working relationships with children, families, and professionals involved in the case while fully acknowledging their identity attributes and cultural differences
- ◆ recognize the impact of Indian Child Welfare Act and the Multicultural Placement Act on placement decisions and acquire the ability to advocate for the children while assisting the court in decision making

- ◆ acquire the ability to make decisions and administer interventions that support the integrity and strengths of the culture of the child and the parties (McPhatter, 1997) while being mindful that each case is unique

The above mentioned awareness, knowledge and abilities are indicative of the GALs' cultural competence. Culture is an integration of people's history, customs, communications, moral values, philosophies, and myths that may be transmitted from generation to generation as well as identity attributes that may include gender, race, ethnicity, language, religion, sexual orientation and ability. Culture is a way of living "informed by the historical, economic, ecological, and political forces" on a group of people (American Psychological Association, n.d.). We develop our thinking patterns, values and behaviors from our culture and view the world through our cultural lens. We learn about culturally different people through the social conditioning imposed by the family and the society (educational system, media, etc.). Our culture becomes the frame of reference when we interact with people thus affecting the way we may interpret the meaning of their values and behaviors.

Cultural competence is the acquisition of congruent knowledge, attitudes, behaviors (Cross, Bazron, Dennis, & Isaacs, 1989; Sue, 2001) that enables us to think, act, and interact with people from different cultural backgrounds with an open-mind while respecting their dignity and recognizing the power dynamics. At the organizational level, cultural competence enables us to actively advocate for institutional policies and practices that are equitable and responsive to all people.

### **Cultural Competence Attainment**

Derald Wing Sue, an eminent psychologist and a leading researcher on cultural competence, posits that the term, acquisition, in the definition of cultural competence indicates that cultural competence is the "process of becoming" (Sue, 2001). Bryant and Peters (2001) point out that developing competence in cross-cultural lawyering is a lifelong process. To begin the process, the GALs need to acknowledge and accept the role culture plays in shaping their worldviews and perceptions of people from different backgrounds. Self-awareness is the key to cultural competence and enables the GALs to be mindful of possible biases in performing their diverse responsibilities.

### **Need for culturally competent practice**

The primary responsibility of the GALs' is to work and advocate on behalf of children and represent their best interest to assist the court in the decision making process. GALs can accomplish their purpose only by starting their journey toward achieving cultural competence. The cost of cultural incompetence is both institutional and personal. Cultural incompetence perpetuates the prevalent societal inequities and does nothing to help the neediest children and their families. Despite having lofty goals, culturally incompetent individuals and organizations provide disservice to children, too often by devaluing their families and communities into which they are born (Green and Appell, 2006). Cultural competence makes us socially responsive and responsible human beings with an enlightened consciousness. McPhatter (1997) says:

The real payoff is the realization that we are more effective in our efforts and more energized toward goal attainment when we are not constantly trying to protect our fears, trying to say or do the politically correct thing, and trying to avoid the most frightening prospect-being thought of as a bigot. We begin to develop a foundation of trust at the core of which is equality, resulting in more creative solutions to difficult problems. (p.275)

## VOCABULARY

It is critical to learn the definitions of terms related to multiculturalism and social justice since people tend to confuse and misuse them.

**Race:** Race is the category to which others assign individuals on the basis of physical characteristics, such as skin color or hair type, and the generalizations and stereotypes made as a result. Thus, "people are treated or studied as though they belong to biologically defined racial groups on the basis of such characteristics" (Helms & Talleyrand, 1997)

**Ethnicity:** Ethnicity is an identity attribute that a group of people having a common ancestral origin may share on the basis of their shared history, regional, linguistic and cultural characteristics.

**Sex:** Sex refers to the genetic and anatomical characteristics which define humans as female or male. These biological characteristics tend to differentiate humans as males and females but they are not mutually exclusive since there are people who possess both

**Gender:** Gender refers to culturally based expectations of the roles and behaviors of men and women. The term distinguishes the socially constructed identity from the biologically determined aspects of being male and female.

**Gender identity:** The gender that one believes oneself to be. An individual's innermost sense of self as male or female, as lying somewhere between these two genders, or as lying somewhere outside gender lines altogether.

**Transgender:** Refers to those whose gender expression and/or anatomies may not confirm to predominant gender roles. Transgender is a broad term that includes transsexuals, cross-dressers, drag queens/kings, and people who do not identify as either of the two sexes as currently defined. When referring to transgender people, use the pronoun they have designated as appropriate, or the one that is consistent with their presentation of themselves.

*Pronouns when referring to transgender individuals: Use "ze" to replace he or she and "hir" to replace him or her.*

**Transsexuals:** Transsexuals are individuals who do not identify with their birth-assigned genders and sometimes alter their bodies surgically and/or hormonally.

**Minority:** A group of people who, because of their physical, cultural characteristics or sexual orientation experience differential and unequal treatment thus becoming objects of collective discrimination.

**Majority:** Group that holds the balance of social, economic and political power (including the three branches of government: judicial, executive and legislative); controls access to power and privilege and determines which groups will be allowed access to the benefits, privileges and opportunities of the society.

**Individualism:** Individualism holds that the individual is the primary unit of reality and the ultimate standard of value. Society is a collection of individuals. Values include self-reliance and personal independence.

**Collectivism:** Collectivism holds that individual is connected to the family and kinship which are the primary units of reality. Values include interdependence, harmony with family and kin as well as with nature. Harmony within the family and nature leads to harmony within the self.

**Privilege:** Any entitlement, sanction, power, immunity and advantage or right granted or conferred by the dominant group to a person or a group solely by birthright membership in prescribed identities (Black and Stone, 2005).

**Oppression:** The state of keeping down, making invisible and ignoring of the minority by unjust use of force, authority or the dominant group's norms. Racism, sexism, heterosexism, accentism, ableism are oppression of people based on their race, sex, sexual orientation, language, and disability respectively.

**Equity:** Equity is about removing institutionalized barriers to provide fair access to opportunities (college education, for example) and privileges (marriage, for example) for all the members of the society.

**Multiculturalism:** Accepts the existence of multiple worldviews and belief systems, understands behaviors in a social context. As a social movement, multiculturalism includes principles of social justice (Sue, 1999 as cited in Parker and Fukuyama, 2007).

## **IDENTIFYING THE GAL'S WORLDVIEWS AND PERSONAL BIASES**

### **Identifying the Dominant Culture/Defined Norm**

Dominant culture is practiced by the members of the dominant group or the majority who hold the balance of social, economic and political power (including the three branches of government: judicial, executive and legislative). The dominant group controls access to power and privilege and determines which groups will be allowed access to the benefits, privileges and opportunities of the society.

Indicators of dominant culture:

- ◆ Standard of rightness and righteousness

- ◆ Educational system (philosophy, curriculum, teachers, and leaders)
- ◆ Language that everyone must learn
- ◆ Religion and spirituality that are dominant
- ◆ Conscious and unconscious suppression of other cultures
- ◆ The racial and ethnic background, gender, sexual orientation, educational level, class, religion and ability of people who occupy positions of economic and political (governing, judicial, etc.) power

**Exercise**

Based on the above indicators, identify what is the dominant culture in the United States of America.

**Self-exploration exercise**

1. Identify your identity attributes: race, class, and gender. When did you become aware of your identity attributes and in what context/situation?
2. Using the dominant culture indicators, identify your membership in dominant or non dominant groups.

	Dominant	Nondominant
Race		
Gender		
Sexual orientation		
Education		
Class		
Religion/Spirituality		
Ability		

3. Read Peggy McIntosh's article, "White privilege: Unpacking the invisible knapsack." Identify your privileges
4. What are your standards for rightness regarding family, relationships, sexuality, child rearing, and spirituality?
5. What are your views about meritocracy and about pulling oneself up by one's bootstraps?
6. How does your culture shape your attitudes, values, biases and assumptions about your work as a GAL and about others who come from a different cultural background?

### **Cultural bias in the GALs' work**

One's good intentions toward others may not always result in outcomes that are free of discrimination. The distinction between intentions and effects is crucial to developing cultural competence (Weng, 2005). Research evidence points out that despite their beliefs about their open-mindedness, people tend to unconsciously harbor prejudice against racially or ethnically different groups that may result in subtle discriminatory behaviors (Ridley, 2005; Weng 2005). Some culturally biased assumptions that are harbored by western trained professionals (Pedersen, 2002) are: (1) measuring people against one "normal" standard of behaviors irrespective their cultural differences; (2) valuing rugged individualism; (3) emphasis on independence while dependency is undesirable or neurotic condition; (4) neglecting client's support system such as extended family members; (5) only "cause and effect" thinking considered as scientific and appropriate; (6) minimization or ignorance of the historical roots of the client's background; (7) focus on changing the individuals, not the system; (8) Assumptions that the professionals and their work are free of cultural biases. Very often the inequities in education, class and power become the invisible barriers in the professional-client interaction.

### **Avoiding gender, same-sex and transgender biases**

Identification of hidden biases creates mindfulness. The following list of questions enable the GALs to make an honest assessment of their sexist and heterosexist attitudes and beliefs:

1. How did your culture play into your understanding of gender?
2. Do you have religious beliefs that guide your values about gender and sexual orientation?
3. What are your views about same-sex and transgender relationships and parenting?
4. Have you interacted with gay/lesbian/bisexual/transgender parents?
5. What are your views about child placement and adoption by same-sex couples or transgender people?

Once the GAL identifies her or his worldviews and biases, she or he needs to make an informed decision about the limits of her or his effectiveness working with same-sex or transgender couples – especially if her or his religious or spiritual beliefs disapprove same-sex relationships.

While working with the same-sex or transgender parents, mindfulness of the role of individual and institutional heterosexism is the key to prevent biases. The following checklist may help the GALs in avoiding the biases:

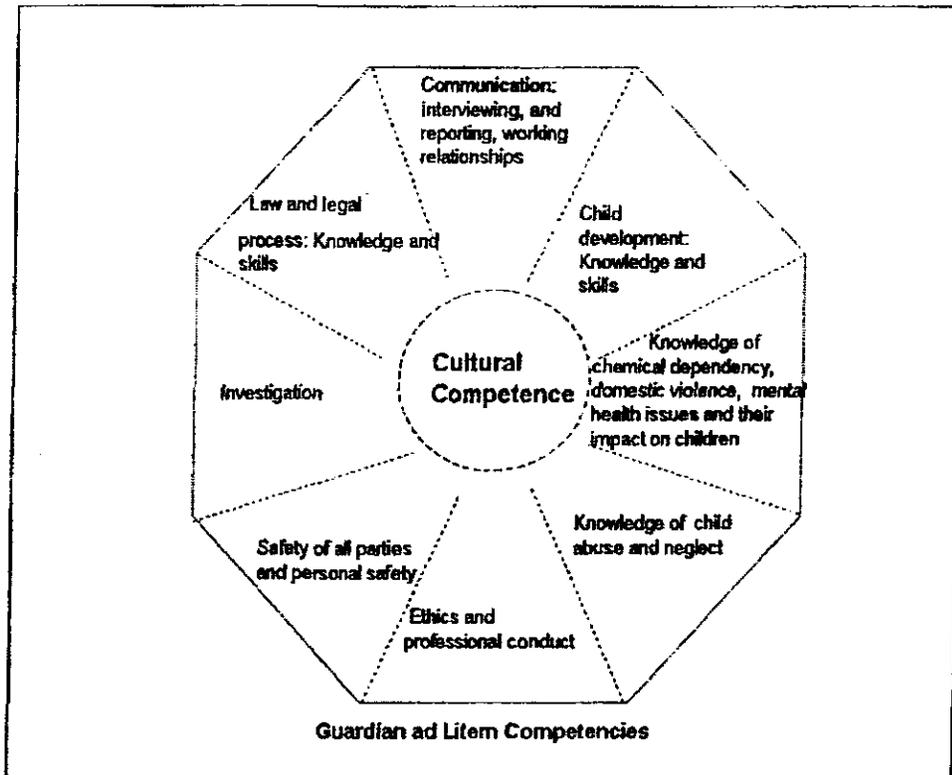
1. Think about the child in context of the family. Same-sex or transgender parents are parents first.
2. Use inclusive language in communication and reporting
3. Increase your knowledge of the same-sex and transgender parents

4. If you have personal biases for whatever reasons, look at the research evidence and listen to the professionals. All the major professional organizations and medical experts support the gay, lesbian and transgender parenting.

## BRIDGING THE GAP BETWEEN INTENTIONS AND OUTCOMES

### Model for understanding the central role of cultural competence in the GALs' functional responsibilities

Substantial research evidence from various service professions such as counseling (Ridley, 2005), law practice (Bryant and Peters, 2001; Weng, 2004), health care and social work (McPhatter, 1997) points out that cultural competence plays a crucial role in the efficaciousness of the professional. Cultural awareness, knowledge and skills form the core part of a service professional's functioning since people are cultural beings. GALs' cultural competence development influences their effectiveness in all the responsibilities that the GALs undertake in their child advocacy. The following model gives a visual presentation of various functions of the GALs:



The model presented here identifies the central role of cultural competence in achieving the GAL standards. Cultural competence occupies the core or the hub of the model thus signifying that without the development of cultural competence, the GAL standards would fall short of the best practices thus doing disservice to the child and defeating the very purpose of the GALs' work. The GALs' cultural competence development affects how they understand the legal system and practices, observe, interact, communicate, investigate, report to the court and assist the court in making a culturally competent decision that serves the best interests of the child. The model therefore indicates the need for cultural awareness, knowledge and skills in all areas of the GALs' professional performance as discussed in the following sections:

#### Personal safety assessment

The GALs' assessment of personal safety depends on his or her worldviews and biases which may affect her or his comfort level and the ability to go out of comfort zone while working with people from a different race or sexual orientation. Without achieving some level of cultural competence, any assessment of personal safety made by the GAL would not be valid and reliable thus falling short of the best practice

#### Communication

The GALs' work involves interviewing the family and others involved in the case; analyzing and reporting the information. Self-awareness including the power hierarchy between the GAL and the family members; knowledge of the cultural background, historical roots of the family and the systemic oppression that may be affecting the family members all required for developing effective communication skills and for building trust-based working relationships.

Cultural competence enables GALs to develop trust-based relationships with family members and professionals involved in the case, and to be mindful of the unconscious cultural biases that may creep into the investigation and to work toward fixing the systematic disparity in services provided to the minority children.

#### Ethics and Professional Conduct

The GALs need to be cognizant that ethics and standards for professional conduct may have implicit cultural norms and values. In maintaining fairness, the GALs need to be mindful of the reasons, such as racial bias, for the overrepresentation of minority children in the foster care system.

#### The law and the legal process

The law and the legal process require the GALs to represent the child and assist the court in the decision making process. Cultural competence of the GALs enables them to be sensitive to the autonomy and possible mental trauma of the child during the process, help the court see the child in the context of family and community by "framing and supporting alternative approaches to dispute resolution – non judicial processes that allow children and their families to have an authentic voice in decision making (Olson, 2006 as in Green and Appell, 2006). The GALs need

to see how the laws that are based on individualistic model of rights and responsibilities (Bryant and Koh Peters, 2001) may affect the families that may have collectivist views and behaviors.

#### Knowledge of child development

Culturally appropriate knowledge of child development needs to include the minority child development and address the cultural differences in child rearing practices and family structures and values. As the UNLV (Green and Appell, 2006) recommendations point out, children must be understood in the context of their families, communities and their historical roots.

#### Knowledge of child abuse and neglect

Knowledge and analysis of child abuse and neglect need to be free of personal biases against others' cultures and stereotyping. In addition, cultural competence enables the GALs to look at the effect of systemic oppression in the form of inequitable policies and disparate services that they may wish to address at the organizational level. Culturally competent GALs would be able to sort out culture-influenced processes of child rearing from harmful behaviors.

#### Knowledge of chemical dependency, domestic violence, mental health issues and their impact on children

Cultural knowledge enables the GALs to study how cultural factors as well as systemic oppression are interrelated to the issues of chemical dependency and mental health among the minorities. Knowledge about domestic violence must include contextual factors such as poverty, single parenthood, and histories of previous intimate partner violence, as well as the double bind situation faced by the white women as well as women of color while facing the issue of domestic violence. The double bind situations include the risk of children being placed in foster care because of lack of financial resources if the battered women seek help. In the case of women of color, their responses to violent and abusive behavior may also be influenced by the chronic experiences of racism, and the social contexts in which they live. GALs need to be mindful of the cultural and socioeconomic context of domestic violence and the impact on battered mother and child.

The UNLV children's conference recommendations (Green and Appell, 2006), caution against the lawyers making assumptions of what the children need and want and how best to serve the children because these assumptions may be based on stereotyping or the lawyer's own personal experiences, worldviews and biases. The UNLV recommendations posit that children must be understood in context – as developing human beings with families and complex multiple identities. Cultural competence enables the GALs to be mindful of making assumptions while learning and applying their knowledge of chemical dependency, domestic violence and mental health issues and their impact on children.

## Investigation

Cultural competence will enable the GALs to become aware of distractions and biases that might detract them from representing the best interests of the child, and will develop strategies for avoiding them.

The central role of cultural competence thus emphasizes the connection between personal and professional development and makes it imperative that the GALs find ways to address the role of cultural competence in all of their functions

### **Sorting individual biases, systemic oppression and cultural norms from harmful behavior that impacts children**

There is substantial research evidence (Hill, n. d.) that racial bias among the child welfare professionals and the child protective services system results in disparity in services provided to the minorities, especially African Americans, whose children are overrepresented in the foster care system. The minority overrepresentation in the child welfare system results from the cultural insensitivity and biases of workers, policies and institutional racism. Blacks are twice as likely to be investigated for child maltreatment as whites. Most research studies suggest that race alone or race in addition to other factors is strongly related to the higher rates of investigations for the African Americans.

Fontes (2002) reported that in the United States, most child welfare professionals hold a highly individualistic view of child maltreatment by assuming that it is inflicted by parents on their children. Thus they disregard the systemic issues such as child poverty; inadequate housing; poor health care; overcrowded and under funded schools; dangerous neighborhoods and lack of opportunities for parents to get out of the cycle of poverty and racial oppression which result in social stress. Fontes (2002) suggests that professionals caring for these families may also work to bring about systemic changes for social justice.

When the GALs suspect child maltreatment, in addition to being mindful of the social stress, they need to be cognizant of the cultural differences child rearing practices (Fontes, 2002). For example, while spanking children with a stick or a broom may be considered as child abuse by the European American culture, leaving the infants to sleep on their own or male infant circumcision is perceived as abusive by many cultures. While the corporal punishment, defined as the use of physical force to inflict pain, may be seen as an acceptable form of discipline among some minorities, information about the frequency of such punishment, its intensity as well as the context would help the GALs in recognizing if there is physical abuse.

Cohen (2003) provides a check list of critical considerations when child welfare professionals work with diverse families. The following list is adapted from Cohen's frame work.

Critical considerations to sort cultural factors from harmful behaviors:

- What are the GAL's standards of norm for child rearing practices and how are they different from that of the child's family?
- Has a conflict occurred because of different child-rearing beliefs and behaviors?
- Are there any language barriers or religious differences that are affecting the GAL's interaction with the child and the family?
- Is the parenting leading to neglect, medical neglect, inadequate nutrition and supervision thus endangering the physical and mental health of the child?
- Are conditions related to safety, neglect, supervision and nutrition the result of poverty factors?
- Is substance use affecting the safety, physical and mental health, nutrition and education of the child?
- Have other caregivers, extended family members or teachers expressed concerns about the child's wellbeing?
- Does the child give indications of being affected by witnessing violence or experiencing psychological maltreatment?

### **Role of GAL in assessing behavior resulting from cultural differences**

Bryant and Koh Peters (2001) identified five habits for cross-cultural lawyering based on the core principles that are necessary for lawyering: people are cultural beings and cultural competence is imperative for lawyering; open-mindedness; lawyers need to remain with the individual client, always respecting her dignity, voice and story. The five habits identified by Bryant and Koh Peters (2001) have been adapted for GALs' work practices with an additional sixth habit. These habits enable the GALs to effectively assess the behaviors arising from the differences in the cultural norms in the GAL-client-Law triad.

1. Identify how the similarities and differences between the GAL and the client's backgrounds may affect the GAL-client interaction. By identifying differences, GALs can become aware of potential misunderstandings or personal biases. By identifying similarities, GALs can recognize their connection with the clients. This process may enable the GALs to analyze the effect of similarities and differences on their functional responsibilities such as information gathering and analysis and presentation. By identifying similarities and differences GALs can explore the ways they connect with the clients and the ways they might judge, misunderstand or misinterpret clients.
2. Identify and analyze the similarities and differences of two different dyads: client-law and the lawyer-law. Make a list of the similarities and differences and compare the dyads with the lawyer-client dyad. The comparison will enable the GALs in assessing the credibility of the client's story; plan appropriate legal strategies; identify the agreements and disagreements with the cultural values and norms implicit in the law and how it applies to the client; analyze if the GAL is probing for clarity using all the three frames of reference: Client, GAL and the law.

3. The parallel universe habit enables the GALs to challenge themselves to identify many alternatives to the interpretations they may come up with, in the absence of sufficient information. This habit enables the GAL not to be judgmental about their client or family's behavior. For example, people working for minimum wage may not be able to spend time or have a flexible work schedule to meet with the GAL during the work day since they have to earn their living.
4. Be mindful of the communication and be on the alert for the red flags when interpreting the information.
5. Recognize that there are numerous factors that may adversely affect the GAL-client interaction. The GAL who proactively addresses these factors may prevent the interaction from reaching a breaking point.
6. Use the cultural asset paradigm: It is also critical that the GALs look at their client and their family from the cultural assets paradigm thus valuing the strengths of their cultural background. For example when working with a bilingual Latino child, the GAL can focus on their ability to speak two languages and the support of the community. Looking at the strengths of a different culture may help the GALs to build a trust-based relationship with the child and the family.

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