



# 2013 Report to the Pennsylvania State Roundtable

## *Moving Children to Timely Permanency Training for Legal Representatives of Children & Parents*

Chairperson:

**Honorable Kelley Streib**

Court of Common Pleas of Butler County



# Legal Representation Workgroup

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## **Moving Children to Timely Permanence**

Training for Legal Representation for Children and Parents

### **An Update to the State Roundtable of Pennsylvania**

#### **Background:**

In 2009, through the roundtable system utilized by the state of Pennsylvania, the leaders in the child welfare and child dependency system began discussing the need for well-trained legal representatives for children and parents. There became a growing awareness of the inconsistent practices, across the Commonwealth, with regards to representing children and parents. At the same time, it was becoming increasingly clear that there was a strong correlation between high quality representation and a better understanding, by those represented, of the dependency proceedings. Therefore, in the spring of 2009, the State Roundtable convened and charged the Office of Children and Families in the Courts to develop a set of recommendations regarding pre-service and ongoing training for guardians ad litem and parents' attorneys. The Legal Representation Workgroup, consisting of county, state and national experts on legal representation in dependency matters, was convened in the fall of 2009 to develop the recommendations requested by the State Roundtable.

During the first year, the workgroup reviewed national best practices, conducted a statewide survey and developed specific objectives and action steps for both pre-service and core training. At the May 2010 State Roundtable, approved recommendations included the development of a pilot core training for guardians ad litem and parent attorneys. The pilot training was held in Harrisburg, PA on March 21<sup>st</sup> and 22<sup>nd</sup>, 2011. The training consisted of 50 attorneys who represented Phase I, II and III Permanency Practice Initiative counties. The training was successfully completed and well received by the training participants with an overall evaluation rating of 4.5 out of 5.0 and 4.7 out of 5.0 when only factoring in practices within various hearing types.

With the successful completion of the pilot training, the following recommendations were approved at the State Roundtable in May 2011:

- i. Continue work on issues pertaining to the legal representation of parties in dependency proceedings

- II. Develop a follow up training (Core II) for core issues not included in the Core training, specifically Termination of Parental Rights hearings and appeals
- III. Explore the need for advanced training and provide further recommendations to the 2012 State Roundtable regarding such training
- IV. Explore ways to develop a network for guardians ad litem and parent attorneys and make recommendations to the 2012 State Roundtable
- V. Begin discussions regarding potential standards of practice, caseload size and compensation structure for guardians ad litem and parent attorneys as they relate to supporting the work of best practice and high quality representation

The months following the May 2011 State Roundtable proved to be both busy and exciting for the Workgroup, especially the incredible training sub-committee and faculty for the Core I Statewide roll-out. Over 600 Guardians ad Litem, Parent Attorneys and Solicitors participated in the Core I training throughout Pennsylvania. The training sub-committee and faculty consisted of the following:

The Honorable Max Baer  
 Pennsylvania Youth Panel  
 The Honorable Kelley Streib  
 Administrative Judge Wendy Demchick-Alloy  
 Eleanor Bush, Esq.  
 Frank Cervone, Esq.  
 Sharon England, JD, MSW, BSW  
 Kathy Gomez, Esq.  
 Sarah Katz, J.D,  
 Sandra Moore, MSW  
 John Perrott, Esq.  
 Tammy Reese, Esq.  
 Christy Stanek, MSW  
 Kerith Strano Taylor, Esq.  
 Ron Thomas, Esq.  
 Tracey Thomasey, LSW  
 Lynne Napoleon, MS

These dedicated and passionate professionals created presentation materials, participated in and traveled to the following Core I regional locations during the fall of 2011 and into the early part of 2012:

Wilkes Barre (North East Region)	October 11 <sup>th</sup> and October 12 <sup>th</sup>
Cranberry (North West Region)	October 25 <sup>th</sup> and October 26 <sup>th</sup>
Monroeville (South West Region)	October 27 <sup>th</sup> and October 28 <sup>th</sup>
Carlisle (Center Region)	November 14 <sup>th</sup> and November 15 <sup>th</sup>
Villanova (South East Region)	November 16 <sup>th</sup> and November 16 <sup>th</sup>

The Core I elements reflected the elements of the Core I pilot training held in Harrisburg on March 21<sup>st</sup> and 22<sup>nd</sup>, 2011. These elements included the following:

- Pennsylvania's Mission and Guiding Principles
- Roles and Responsibilities of Guardians ad litem and Parent Attorneys
- Shelter Hearing Proceedings
- Adjudicatory Hearing Proceedings
- Disposition Hearing Proceedings
- Permanency Hearing Proceedings
- Grief and Loss
- Enhancing Communication with Children and Parents
- Overview of Appeals

Overall the evaluations showed a favorable response by the attendees, with an overall rating of 4.4 out of 5.0. Due to the amendment of Core I for Philadelphia, the evaluations had to be computed separately to ensure accuracy of the ratings. Philadelphia showed an overall rating of 3.5 out of 5.0. Many attendees were pleasantly surprised by the practical application of the training material provided to their work in dependency. Many also commented on the high quality, relevant and dynamic presentations that they "typically do not experience at other CLE trainings."

In early 2012, a standards-subcommittee was formed to meet the charge to "begin discussions regarding potential standards of practice, caseload size and compensation structure for Guardians ad Litem and Parent Attorneys as they relate to supporting the work of best practice and high quality representation". An outline of this subcommittee's proposed work was presented and accepted at the May 2012 State Roundtable, with the approval to continue exploring the issue of standards for legal representation in dependency.

Additional progress made by the Workgroup included a children's activity workbook "What's Happening in Dependency Court? An Activity Book for Children Going to Court in Pennsylvania" and the completion of an educational pre-service DVD set. Overall the DVD is a remarkable and historic product resulting from the dedication and passion of our Supreme Court Justice Max Baer, Superior Court Judge Susan Peikes Gantman, Secretary, Pennsylvania Department of Public Welfare Beverly Mackereth and Office of Children and Families in the Courts Administrator, Sandy Moore. In addition, Judges, attorneys and practitioners across Pennsylvania shared their advice on best practices. Counties seeking reimbursement for Guardian ad Litem services will need to ensure that all Guardians ad Litem appointed on or after June 1, 2012, receive the pre-service training and sign the accompanying Affidavit confirming their completion. Finally, following discussions with the Leadership Roundtable, it was unanimous that there was a need to include County Solicitors in the development and participation of Core II and Workgroup activities. Two Solicitors were accordingly added to the Workgroup.

At the 2012 State Roundtable, the following recommendations were made and accepted:

- I. Continued development of Core II training, to include issues related to Termination of Parental Rights, Appeals, Child Development and Trauma
- II. Establishment of a process for ongoing, high quality, advanced legal representation training, which is relevant to child dependency matters
- III. Continued exploration of ways for Guardians ad Litem and Parent Attorneys to network
- V. Continued exploration of standards, compensation, and caseload drafting a set of Guardian ad Litem and Parent Attorney standards to present to the 2013 State Roundtable
- VI. Examination and drafting of a process whereby standards would be financed, monitored, maintained, and accounted

The Workgroup, including the training sub-committee and standards sub-committee, worked diligently throughout this past year to make progress with fulfilling these charges.

### **Progress on approved 2012 State Roundtable Recommendations**

- I. Continued development of Core II training, to include issues related to Termination of Parental Rights, Appeals, Child Development and Trauma:

In the fall of 2012, Core II was presented in three statewide sites located in the central, eastern and western regions, with participation from over 250 Guardians ad Litem, Parent Attorneys and Solicitors. There are two additional sites currently being planned in Philadelphia and Allegheny County.

The past year has marked another progressive accomplishment for the Legal Representation Workgroup. With the completion of two-day Core I sessions in the fall of 2011 and spring of 2012, the training subcommittee finalized the training material for Core II. This material continues at the proceedings where Core I material left off, beginning at the Permanency Hearing to consider goal change and the Termination of Parental Rights hearing. In addition, Core II includes Appeals and the effects of trauma on children and families, as well as the vicarious trauma experienced by professionals within the dependency system. Core II is a one day training.

The training team for Core II differed from Core I. The Workgroup and core faculty from Core I thought it best to have presenters who were legal experts in Termination of Parental Rights and Appeals. The Legal Representation Workgroup Co-Chairs, Honorable Kelley Streib and Honorable Wendy Demchick-Alloy, along with the Honorable Lois Murphy led an incredible training team of experts in each of the Core II areas. Because Core II included

Solicitors, it was determined that presenters in all three areas of representation (Guardian ad Litem, Parent Attorney and Solicitor) should be represented on the training team. In addition, the Workgroup was excited to add the participation of a Psychiatrist to present on issues related to trauma. Core II was further enhanced by Superior Court Judge Susan Peikes Gantman, presenting a “Message from the Superior Court.” Judge Gantman’s presentation provided the Attorneys a rare look at Appeals through the eyes of the Superior Court, and an opportunity to ask questions to enhance the representation of their clients.

On behalf of the Legal Representation Workgroup, we would like to recognize and thank the following Core II training team members for their time, expertise and dedication to enhancing legal representation across Pennsylvania:

The Honorable Susan Peikes Gantman  
The Honorable Kelley Streib  
The Honorable Wendy Demchick-Alloy  
The Honorable Lois E. Murphy  
M. Joanne Dixon, Ph.D  
Marguerite C. Gualtieri, MSW, Esquire  
Joyce A. Hatfield-Wise, Esquire  
Sandra Moore, MSW  
Elke Moyer  
Christy Stanek, MSW  
Benjamin Zuckerman, Esquire

The Workgroup would also like to thank the many local courts and child welfare administrators across the state for encouraging attorneys to attend Core II. We appreciate the importance placed upon enhancing legal representation in each county.

Core II was offered to 3 regional sites in the fall of 2012, with the first site being purposefully central. Over 250 Guardians ad Litem, Parent Attorneys and Solicitors have participated in Core II. Those regional sites completed and in planning include:

Mechanicsburg (Central Region)	November 15, 2012
Montgomery (Eastern Region)	November 15, 2012
Cranberry (Western Region)	November 30, 2012
Philadelphia (Eastern Region)	Currently in planning
Pittsburgh (Western Region)	Currently in planning

Core II consisted of six Continuing Legal Education credits, including one ethics credit. Some of the content within the material included the following:

- Permanency Hearing to Consider Goal Change
  - Combined Goal Change and Termination of Parental Rights Hearings
  - Aggravated Circumstances
  - Compelling Reasons
- Termination of Parental Rights



- Procedural issues
  - Act 101
  - Voluntary versus Involuntary Termination of Parental Rights versus Consent
  - Child's role at the Termination of Parental Rights Hearing
- Appeals
    - Children's Fast Track
    - Briefing
    - Judicial discretion
  - Advanced Elements of Trauma
    - Effects of trauma on the brain
    - Common traumatic stress reactions at developmental stages, birth – 18 years
  - Vicarious Trauma: Understanding the effects on you as a professional

The critical message to the audience was to begin preparing a case from day one of the appointment. When prepared from day one, including early identification of fathers and family members, the attorney is in a better position to inform their client of potential strengths and concerns at critical hearings, such as Goal Change and Termination of Parental Rights. Efforts were made to provide practical information pertaining to the law, statutes and rules. Additionally, time was spent providing attendees with best practices in each of the presented hearing types, including combined hearings, preparation, motions for reconsideration versus appeals, parental bonding and visitation during the hearings.

Overall the evaluations showed a favorable response by the attendees, with an overall rating of 4.3 out of 5.0. Many attendees commented on their satisfaction with the section on Trauma and the opportunity to hear from a Superior Court Judge. Several evaluations commented on learning the importance of being able to identify trauma and ensure their client has the most appropriate service. Areas of the appellate process mentioned in the evaluations included a better understanding of filing Motions for Reconsideration, the process for appeals and when to ask for oral argument. It appeared, through comments in the evaluation, that the attendees recognized the importance of preparing their case from day one, including advocacy for the most appropriate service, communication with the incarcerated parent and identification of family resources for the child. Evaluation results, for the three completed regions of Core II, can be found in Attachment I.

## II. Establishment of a process for ongoing, high quality, advanced legal representation training, which is relevant to child dependency matters

High quality advanced training should be offered at a low cost, be easily accessible and compliment State Roundtable's message priorities, including the Bench Book and Mission and Guiding Principles.

The Workgroup carefully considered the topic of advanced training for attorneys. Important factors considered included:

- High quality training at a low cost

- Easily accessible location sites
- An outside entity complimentary to the State Roundtable Mission and Guiding Principles, Bench Book and best practices
- Ensure advanced topics reflect current State Roundtable priorities

The Workgroup believes these advanced trainings should be endorsed by the Office of Children and Families in the Courts and the State Roundtable. For this to happen, the Workgroup strongly believes that training quality and focus must be overseen by the Office of Children and Families in the Courts in some form. The Workgroup discussed the possibility of connecting advanced training topics so as to compliment the topics of State Roundtable supported annual conferences, such as the Children’s Roundtable Summit and Family Group Decision Making Conference. This would provide for consistency in the education and information being shared and ensure that all parties in dependency matters are moving in the same direction.

While not suggesting the Office of Children and Families in the Courts become the developers of all advanced training, the Workgroup believes that OCFC should examine and identify the best process for ensuring the factors outlined above are incorporated into future advanced training endorsed by the State Roundtable and OCFC.

III. Continued exploration of ways for Guardians ad Litem and Parent Attorneys to Network

Continued networking for attorneys practicing in dependency matters is important for sharing best practices across the Commonwealth.

The Workgroup spent time in 2011 and 2012 exploring ways for Guardians ad Litem and Parent Attorneys to network. Solicitors have a means of networking through their association events held in conjunction with the Pennsylvania Children and Youth Administrators (PCYA) organization; however, there is no such association for other dependency attorneys. The Workgroup discussed networking options such as a List-Serve, but after further thought, the group became concerned about case information accidentally being shared, thereby violating confidentiality. As the group began to discuss the possible options for advanced training, specifically something annually around one of the current Pennsylvania State Roundtable supported conferences, it decided that this type of process would also serve as a networking opportunity for Guardians ad Litem, Parent Attorneys and Solicitors. Therefore, the Workgroup believes that the charge of continued networking would be met once a process for determining advanced training is developed.

IV. Continued exploration of standards, compensation, and caseload -- drafting a set of Guardian ad Litem and Parent Attorney standards to present to the 2013 State Roundtable.

V. Examination and drafting of a process whereby standards would be financed, monitored, maintained, and enforced.

Diligent and effective legal representation is at the heart of access to justice. To ensure equal opportunity for children and parents to receive this level of practice, careful consideration has been given to drafting a set of standards and exploring the effects of caseload size and compensation on best practice representation.

The final two charges of the 2012 State Roundtable report are combined in the remaining section of this year's report. In 2011 a standards sub-committee of the Workgroup was formed to explore the issue of standards, caseload size, compensation and a process for implementing, monitoring and overseeing the standards. The sub-committee membership reflects diversity of county size and region. In addition, there is representation from Guardians ad Litem, Parent Attorneys, Solicitors and other experts in this area. The standards sub-committee has worked diligently over the past year to gain the most inclusive feedback from attorneys, children and parents across the state regarding best practice standards, including over 15 in-person or conference calls to develop and finalize this year's reports. Attached to this report is the sub-committee's report on standards of practice, caseload size and compensation (Attachment II). There are four supporting documents to that report, as follows:

- APPENDIX A** Findings from the Statewide Focus Groups and Survey
- APPENDIX B** Draft Standards of Practice
- APPENDIX C** Draft Time Study Chart
- APPENDIX D** Resource Guide

Please note that APPENDIX C, Draft Time Study Chart, is for information purposes only. If approved by the State Roundtable, this chart will be used and tested by the sub-committee to determine an appropriate caseload size based on a number of factors. These findings and further recommendations will be reported to the 2014 State Roundtable.

The sub-committee, with support of the Workgroup, is recommending approval to continue working over the next year to complete standards, recommend an appropriate caseload size and compensation structure, and develop a process for implementation, accountability and enforcement.

**The Workgroup believes, however, that continuation of this work requires strong support and consensus from the State Roundtable.**

#### **Recommendations:**

Based upon the information contained in this report, the Legal Representation Workgroup respectfully recommends:

1. Approval that the original charge of training dependency attorneys be considered fulfilled with the completion of Core I and Core II.
2. Office of Children and Families in the Courts identify a process for how high quality, low cost and easily accessible advanced training will occur.

3. Office of Children and Families in the Courts facilitate the convening of Core I faculty, 1 year prior to the offering of Core I training, which shall occur as deemed necessary, but no less often than every 5 years.
4. A final proposal for Standards of Practice with commentary and citations be submitted to the 2014 State Roundtable.
5. A final proposal for caseload size, compensation and implementation strategies for enforcement recommendations be presented to the 2014 State Roundtable.
6. Continued examination and drafting of a process whereby standards would be financed, monitored, maintained, and accounted.

*This report is respectfully submitted on behalf of the co-chairs and workgroup members.*

## Attachment I

### Legal Representation Core 2 Regional Training

**What is your overall evaluation of the training?**

Mechanicsburg	Blue Bell	Mars
4.1	4.4	4.5

**How relevant was the information presented?**

Mechanicsburg	Blue Bell	Mars
4.2	4.5	4.6

**How satisfied were you with the following sessions:**

**Termination of Parental Rights**

Mechanicsburg	Blue Bell	Mars
4.0	4.2	4.4

**Message from the Bench, Superior Court**

Mechanicsburg	Blue Bell	Mars
4.0	4.9	4.4

**Appeals**

Mechanicsburg	Blue Bell	Mars
4.1	4.5	4.5

**Trauma: The Ethics of Practice**

Mechanicsburg	Blue Bell	Mars
4.4	4.5	4.3

**What surprised you about the training?**

“The information was very practice based and very well rounded from the perspectives of all party’s counsel.”

“That the child’s voice at the Termination of Parental Rights hearing is not weighed”

**What two things did you learn or are able to take away from the training?**

“Strategies for Appeals”

“Focusing on whether severing a bond would be harmful, not whether or not there is a bond”

**What two things will you do differently in your dependency cases beginning tomorrow?**

“Have more communication with the incarcerated parent”

“Will better prepare my case from the beginning when I open the file”

**What questions do you still have about the material or what information do you still need to know?**

“How to cross examine witnesses on trauma”

“The role of the child’s attorney during a Termination of Parental Rights trial”

**What was missing from the training or what could have been done to make the training better?**

“How to handle a Termination hearing when your client has done nothing, but still thinks they should get to keep their children”

“More information on assessments and treatment for trauma and other mental health issues”

## Attachment II

### Standards Sub-Committee of the Legal Representation Workgroup

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Katherine J. Gomez, Esquire  
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#### Members

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*Staff Attorney*  
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Pam Parascandola, Esquire  
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*Practitioner*  
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*Director*  
ACBF Juvenile Court Project  
Allegheny County Parent Advocates

# **2013 Report of the Legal Representation Workgroup on Standards of Practice, Caseload and Compensation for Lawyers in Dependency Cases in Pennsylvania**

**Mission and Guiding Principles for Pennsylvania’s Child Dependency System: To attain the overarching goals of child safety, well-being and permanency.**

## **I. SUMMARY**

This Report presents the important case for improving representation, explores the mix of solutions necessary to influence lawyer performance and accountability, and sets forth a path for our work to go forward towards success in design and implementation.

The Legal Representation Workgroup (“LRWG”) recognizes the Pennsylvania’s Children’s Roundtable’s Mission and Guiding Principles for Pennsylvania’s Child Dependency System and its initiatives designed to attain the “overarching goals of child safety, well-being and permanency”. To achieve these goals any acceptable system for appointing child and parent attorneys must assure the provision of high-quality legal practice, including sufficient social service and investigative support, professional training, supervision and accountability, and reasonable caseloads and compensation that allow and encourage high quality practice. This Report details the various ways that lawyers, judges and the system can positively influence performance and accountability, including: Standards of Practice; programs for training, mentoring and supervision of lawyers; caseload limits and time studies; improvements to compensation; and changes to statutes and court rules.

Appendices present themes and responses from diverse focus groups held around the Commonwealth, draft Standards of Practice and Time Charts that are presented to demonstrate the current and proposed future work of the LRWG, and resources from professional groups and jurisdictions around the nation.

## **II. INTRODUCTION AND BACKGROUND**

### **A. Statewide Roundtable’s Authorization and Charge to LRWG 2011/2012**

In May 2011, the LRWG received authorization from the State Roundtable to pursue the following recommendation:

*Begin discussions regarding potential standards of practice, caseload size and compensations structure for GALs and parent attorneys as they relate to supporting the work of best practice and high quality representation bringing specific recommendations to the 2012 roundtable. Recommendations will include strategies to practice standards during times of limited resources.*

--Recommendation 5 from *Moving Children to Timely Permanency, An Updated Report to the Pennsylvania State Roundtable*, May 2011



A diverse committee of the LRWG (“Sub-committee”) composed of lawyers who represent children<sup>1</sup> and parents in dependency proceedings was formed to lead this discussion and provide recommendations.

The LRWG presented a summary report of its work to the State Roundtable in May 2012. The 2012 Roundtable charged the Workgroup with continuing to address these important topics, with the following charge:

*Continued exploration of standards, compensation and caseload drafting a set of Guardian ad Litem and Parent Attorney standards to present to the 2013 State Roundtable.*

*Examination and drafting of a process whereby standards would be financed, monitored, maintained and accounted.*

## **B. LRWG 2012/2013 Activities**

The Sub-committee has worked over the last year to gather data, conduct focus groups, review various sources of academic and professional guidance, and consult colleagues across the Commonwealth. Our study and recommendations build upon other efforts of the State Roundtable, including the Bench Book, Guiding Principles, and Core Training Programs. We present here a comprehensive overview of the practice of representation of parents and children and how this work should be supported by the State Roundtable, the courts and the organized bar.

**Mission and Guiding Principles: Assure timely and thorough court hearings and expeditious decisions for each child and competent legal representation for children and parents before a shelter care hearing and throughout the legal process.**

## **III. Making the Case for Improved Representation**

### **A. Quality Legal Representation Supports Better Outcomes and Timely Permanency for Children and Families**

“It was only recently that I got one [a guardian *ad litem*] that even bothered to learn how to pronounce my name... [like I] wasn’t even there.”

Jacquan Jones

1. Whether representing a child or a parent, diligent and effective legal representation is at the heart of access to justice. High quality representation leads to better outcomes for children and their families. What happens in these cases has a life-altering impact on children and families involved as decisions about whether to preserve, or reunite families or find another permanent home for a child and even to permanently terminate the parent-child relationship are made in these proceedings. These are matters where there is simply no time for anything short of zealous high quality advocacy. Achieving timely permanency is essential for children’s well-being and the Adoption and Safe Families Act (ASFA) has significantly shortened the time frame within which the unsafe circumstances which led to children’s out-of-home placement must be resolved to achieve both timely reunification and permanency.

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<sup>1</sup> Unless otherwise noted, we use the term “lawyers who represent children” to include both guardians *ad litem* (GALs) and lawyers serving in the role of counsel for the child.

2. We know anecdotally that high quality representation improves the outcomes in dependency matters and now initial promising research in this area is bearing that out. Regional evaluations of three enhanced parent representation programs have shown that quality parent representation improved outcomes for children and families including quicker permanency for children across all permanency outcomes and faster and more successful reunifications.<sup>2</sup>
3. Unfortunately the quality of representation and the experience of client children and families have not always reached acceptable levels. The Pew Commission on Foster Care presents a national perspective on the caliber of legal representation in child dependency matters which was echoed in the focus groups conducted with both providers and recipients of legal services in Pennsylvania:

Children under court supervision and their parents must have an informed voice in decision-making related to whether a child enters foster care, how a child fares while in care, and what kind of plan is in place to secure a safe, permanent home for that child. These are all decisions made in the courts. In our legal system, individuals are most likely to have an informed and effective voice when they are represented by competent counsel. Although infants, very young children, and some children with significant disabilities may not appear able to have an “informed” voice of their own, but it is critical, nonetheless, that they, like children of all ages and capabilities, have a skilled and knowledgeable advocate in all legal proceedings.

Regrettably, this is often not the case for children and parents involved in dependency cases. Children and parents often report infrequent and last-minute meetings with attorneys who appear to them to be unfamiliar with the details of their case or the current circumstances of their lives. Children are not always present in court and are often unaware that court proceedings are underway. Parents report feeling marginalized, criminalized, and left to their own devices to make sense of complex legal processes.

Pew Commission on Foster Care, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care* (2004) at 42 (“Pew Commission”).

4. Accomplishing Pennsylvania guiding principles of assuring timely and thorough court hearings and expeditious decisions for each child and competent legal representation for children throughout the legal process in child dependency matters are challenged by the absence of traditional levers that can influence the quality of practice. By design, the practice of law is largely self-regulating, with the canons of ethics, marketplace forces, and appellate law and practice providing much of the remedies that the profession and its consumers need. Contrary to other areas of the practice of law, however, in child welfare practice there is virtually no marketplace by which lawyers can be discharged and others hired by clients who are dissatisfied with their service. Indigent adults, and even more so, minors have no power to discharge their counsel. Likewise, for a variety of reasons there are scarce few legal claims for ineffective assistance of counsel. ***Consequently the courts and the legal profession must institute other structural protections and influences to ensure that lawyering meets both minimum standards of due process and best-practice standards that we have the capacity and competency to provide.***

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<sup>2</sup> Elizabeth Thornton and Betsy Gwin, *High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings*, Family Law Quarterly, Vol. 46, No. 1 p. 139-154 (Spring 2012).

5. While the statutory right to counsel in Pennsylvania guarantees representation for all children and most parents, there is little consensus about the scope of representation, including questions about client contact, participation in out-of-court advocacy and even motion practice. The consensus of the Sub-committee is that standards of practice that provide clearly articulated roles, expectations, responsibilities and best practices for lawyers representing children and parents are needed to guide legal representation in dependency court where the consequences of proceedings have life-altering impact on vulnerable children and families.
6. Any acceptable system for appointing child and parent attorneys must assure the provision of high-quality legal practice, which must include sufficient social service and investigative support, professional training, supervision and accountability, and reasonable caseloads and compensation that supports and reinforces high quality practice. The task of improving representation lies in understanding the unique challenges of practice in this field, and building a comprehensive model that supports and encourages quality practice.

**Mission and Guiding Principle: Recognize that families are capable of change and, with support, most can safely care for their children.**

### **B. The Unique Challenge of Representing Children and Parents in Dependency Matters**

1. Attorneys in dependency matters have the difficult role of providing in-depth, ongoing counsel and representation to Pennsylvania's most vulnerable children and families at a time of serious crisis. Dependency cases are dynamic requiring counsel to remain actively engaged in the case, gathering information to present comprehensive information and evidence to the court, and assessing the evolving circumstances and changing needs of the child and parent.
2. The essence of providing diligent service as a lawyer for children is to be vigilant in guiding the child through the court process and making certain that each agency and department involved meets the needs of that child. This representation necessarily entails thorough preparation of the case for trial or hearing, including interviews with doctors and witnesses, home visits, meetings and motions, etc. A competent lawyer needs to spend as much time preparing a case involving an allegation of Abusive Head Trauma (or other physical or sexual abuses) as a defense attorney would need to spend on a shooting or rape trial.
3. The same can be said for the representation of the parents of children in the child welfare system. Dependency matters involve serious allegations and life changing consequences which requires extensive preparation for hearings that necessarily involve investigation, significant review of records and evidence gathering along with witness identification and preparation. In addition, many parents have experienced significant personal trauma and other challenging conditions beyond their control such as, housing instability, mental health problems and substance abuse, poverty, discrimination and/or neighborhood and family violence. Effective advocacy for parents requires vociferous in-court and out-of-court advocacy for services and attention. Attorneys must understand their client's unique family dynamics and changing concerns and advocacy needs, and thus must develop a trusting relationship in addition to acquiring a working knowledge about evaluations, treatments and resources their clients may need to safely reunify. Similarly, in the event of out-of-home placements parents are entitled to regular and frequent visitation with their children as well as an opportunity to participate in

critical medical, mental health, and education appointments among other things, but parents consistently report that they are frequently not provided these mandated notifications and opportunities to participate meaningfully in their children's lives. Diligent and effective advocacy at and between hearings is critical to ensuring that parents' rights are protected and that reasonable efforts to prevent out-of-home placement or to reunify parents with their children are provided as prescribed by law.

4. Given the complexity of issues and tight ASFA timeframes referenced above, both child and parent attorneys have an equally critical role outside of court hearings, but such work is time consuming and not consistently defined, required or valued across Pennsylvania. Practitioners know that much of the decision-making and advocacy occurs in between court dates, i.e. during case conferences, service planning meetings and communications with caseworkers, evaluators, treatment providers, teachers, therapists and other counsel. Lawyers and their social work staff must have a functional understanding of the challenges families experience, availability of resources, how to access them, as well as how to advocate for what families need even when these resources are not readily available.
5. Family situations involving multiple siblings present additional challenges for both the parent and child attorney who must diligently investigate and consider evidence from multiple service providers. Children and parents experiencing significant or multiple emotional or physical health conditions also presents unique challenge for attorneys who must demonstrate patience and sensitivity in their legal advocacy.

<b>Mission and Guiding Principle: Ensure competent, trained legal counsel for children and parents who qualify for court-appointed legal counsel.</b>
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#### **IV. INFLUENCING PERFORMANCE AND ACCOUNTABILITY**

##### **A. Training and Accountability**

The improvement of lawyer practice in dependency proceedings requires a mix of legal and ethical requirements, training programs, public reporting and formal oversight. Both the requirements of accountability and the mechanisms of their enforcement will be achieved through an interconnected quilt of work that courts and the legal profession can create together and share responsibility for its advancement. The recommendations of various local and national studies can guide us. We can also adapt and learn from the many jurisdictions that have implemented programmatic or other components to achieve improvements in practice. The Sub-committee recommends that the Statewide Roundtable develop the full schema as set forth below in concert with members of the bench, bar and court administration.

This section details the various ways that lawyers, judges and the system can positively influence performance and accountability. These include statewide Standards of Practice, programs for training, mentoring and supervision of lawyers, analysis of the time and tasks that are elemental to the work, and that will inform both caseload- and rate-setting, improvements to caseload and compensation, and changes to statutes and court rules.

##### **B. Process and Progress of Drafting the Standards of Practice**

1. Upon approval by the State Roundtable in May 2012, the Sub-committee began the work of drafting statewide Standards of Practice. We note that the consensus of the LRWG is that consistency in the

content of representation across the Commonwealth is of paramount importance and that Standards should be drafted and promulgated for uniform application in all jurisdictions.

2. The process of drafting included the following:
  - a. *Review of models:* At the outset, the group gathered and conducted a preliminary review of standards of practice for lawyers for children and parents from a variety of jurisdictions and the ABA model standards. This review revealed that states differed in the depth in which practice standards were outlined, the process for creation of the standards, the promulgating authority and locus in statute or rule, compensation models and enforcement schemes. The Committee discussed other elements of a statewide approach, including whether practice standards should vary based upon the size of the county and be applied differently in the case of pro bono representation. The Committee also discussed the process for monitoring and enforcement of standards as well as whether standards should include training requirement and limitation on caseload size. Finally, the compensation of attorneys in dependency matters was explored.
  - b. *Constructing an initial framework for the Standards -- The 7 Domains:* The Committee identified and drafted certain basic core elements or “domains” of practice, including: Client Contact; Expertise and Knowledge; Case Preparation; Collateral Contacts and Collaboration; Advocacy; Appellate; and Ethical Considerations. These domains serve as the structure of the Standards of Practice and Commentary.

<b>Mission and Guiding Principle: Ensure that the voice of the child and the voices of parents or other caregivers are heard at each stage of the process.</b>
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### **C. Focus Groups**

1. It was critical to the Committee that the voices of both providers and consumers were heard and incorporated in the development of the Standards of Practice. To engage and include numerous and diverse voices of dependency practitioners as well as consumers, we used a focus group format. We sought to include lawyers from different jurisdictions representing various delivery methods of legal services including large agency, sole provider and contractual arrangements from a variety of geographical sizes. In addition, we recruited groups of youth and parents who have received legal counsel in dependency court to participate in focus groups. To augment the voices of youth in the process, a survey based on the focus group questions was developed and provided to older youth.
2. To facilitate the consistency of delivery of the focus groups, support materials were developed in advance and provided to the facilitators. Materials included separate attorney, parent and youth facilitator’s agenda, separate attorney, parent, and youth participants’ agenda, an historical overview, and a summary of the Seven Domains (see attachments in Appendix A). In addition, prompting questions were identified and used as needed to provide further clarification to youth and parents. A quality assurance and research specialist provided technical assistance in the development of materials.
3. Each group was presented background information regarding the Statewide Roundtable, LRWG and the Sub-committee. They were informed that the members of the Sub-committee consisted predominately of attorneys, who have been engaged in the practice of law in dependency court and that they identified seven possible domains or categories of standards. The participants were asked

two primary questions regarding each domain. First, what task or duty they think should be included in the domain and second what if any barriers might interfere with the accomplishment of that task or duty. Each group was also invited to provide suggestions for additional domains or categories.

4. In total eight focus groups were held with a total of ninety individuals participating. Participants included seventeen lawyers who represent children from an urban setting, twenty-two parent lawyers from an urban setting, two solicitors from an urban setting, three lawyers who represent children from a rural setting and two parent lawyers from a rural setting. Five attorneys who represented both parents and children also participated. One of the focus groups held in an urban setting included a judge and two hearing officers. Eighteen parents, who had received legal services in dependency matters, participated in focus groups that were conducted in two different urban settings. A total of twenty-one youth who had received legal representation in dependency matters, participated, including thirteen in a focus group and another eight in writing by a survey.

#### 5. Summary of Findings from Focus Groups

- a. The mood of all of the focus groups can be consistently described as positive and constructive. Rarely did the participants require prompting. Occasionally, participants, including attorney groups, were easily redirected from providing exclusively individual complaints regarding systemic issues or individual representation issues. Participants were encouraged to focus on what they thought an attorney should do rather than how attorneys may have fallen short. Lawyers appeared to welcome the opportunity to learn about the different practices from neighboring jurisdictions.
- b. Several parents in the parents' group became passionate, yet respectful, when discussing their children and the irony surrounding their perception that their children did not receive the very medical and/or educational services while in out of home placement that contributed to the reason for the child's removal. Parents also consistently expressed significant frustration regarding what they perceived as "refusal" of the lawyers who represent children to listen to them or speak directly with them and the lack of opportunities to speak directly to the court. A common theme in the parents' group was the belief that they were not heard.

The youth focus group expressed the most optimistic and constructive comments and required little redirection. Many of the youth provided substantive recommendations for the conduct of the lawyers who represent children. All participants were informed that their participation was voluntary and that a decision to not attend or participate would not impact any services they delivered or received.

**Mission and Guiding Principle: Communicate and cooperate with others within the child dependency system working toward the common goal of providing each child with a safe, nurturing, and permanent family.**

- c. One consistent theme evident throughout each of the focus groups can be summarized in one word, communication. In every domain, participants identified standards and practices that emphasized the importance of timely, positive, substantive and consistent communication between and among attorneys and their clients, caseworkers, service providers, court personnel and other attorneys. Attorney focus group respondents consistently recommended that domain standards include timely, in-person (preferably) and confidential contact with their clients prior to hearings and throughout the court process.

- d. Lawyers who represent children also identified the importance of civil and professional decorum when interacting and communicating with all of the participants including their clients, caseworkers and other attorneys. Many lawyers who represent children provided specific recommendations regarding the substance and caliber of their communication with their clients including the provision of accurate legal advice regarding the client’s case, court processes and the limits of confidentiality. Their comments also underscored the importance of communication in the domains of expertise and knowledge, case preparation and collaboration. Lawyers who represent children endorsed the importance of proactively obtaining information regarding their clients from several sources including their clients, case workers, witnesses, to increase their knowledge and expertise and support quality case preparation. Lawyers who represent children identified themselves as responsible for facilitating collaboration and many identified the importance of their attendance at pre-trial conferences, meetings and positive interaction with caseworkers and foster parents to achieve this collaboration.
- e. Attorneys also identified the importance of the court in facilitating communication through its provision of client contact information, enforcing the timely provision of reports and discovery and clarification regarding compensation.
- f. The theme of communication was echoed in the parent and youth focus groups and in the youth survey responses. In the domain of client contact, both parents and youth identified constant and frequent contact as an appropriate standard. Parents wanted a “heads up” from their attorney about how long it might take their call to be returned. Youth wanted their calls returned promptly. Both parents and youth wanted to know the basics about what to expect from the court and from their attorney. Both groups requested that their legal representatives clearly communicate their role and responsibilities. Parents and youth wanted to be spoken to directly by their lawyers. One youth’s statement, “Speak to me, before speaking about me” was unanimously affirmed by his peers in the youth focus group. Parents and youth responses expanded the caliber of communication beyond the attorneys’ and identified the importance of rapport and relationship building. Both parents and youth wanted their attorneys to establish a good relationship with them. Parents’ remarks included “Be on the same page with me” and “Recognize my feelings of violation.” Youth asked that their lawyers get to know them personally and “care about me.” Parents and youth also expected their legal representatives to facilitate collaboration and interact positively with their parents, caregivers and caseworkers. When it came to advocating for them in and out of the courtroom parents and youth wanted their lawyers to communicate effectively by asking the right questions, taking charge and arguing for their positions. “Be my champion in court.” One youth asked.

**Mission and Guiding Principle: Establish and monitor accountability for all system participants.**

- g. Focus group participants also identified two primary factors, case load size and compensation, as barriers to attorneys’ achieving the standards identified for each domain. Even the parents identified caseload sizes as problematic. “Lawyers are overworked and have too many cases,” said one parent focus group respondent which was supported by the other parent participants in the room and attorneys in their focus groups. Inadequate and lack of clarity regarding compensation also was identified as a barrier by attorneys in each attorney focus group held. Lawyers wondered how they can be expected to accomplish very important functions such as interviewing clients, witnesses and service providers when the compensation is low or even

non-existent. Lawyers also identified additional barriers including limited and delayed access to information, communication problems, and difficulty obtaining services and resources for their clients.

A full discussion of the focus group responses is provided in Appendix A.

#### **D. Drafting the Standards of Practice**

Utilizing the basic framework of the domains and the input from the focus groups, the Sub-committee worked diligently through numerous drafts of the Standards. We also reviewed other practical questions including “what is a case – child or sibling group?” and “whether standards for parent and child representation should be separate or unified?”

A preliminary Discussion Draft of the Standards of Practice is provided in Appendix B. The LRWG recommends continued development of the Standards and accompanying Commentary, which will serve as practice guides and resource for collateral materials. The document needs further refinement as well as input from practitioners and judges around the Commonwealth. The LRWG proposes to present the Standards of Practice with Commentary to the 2014 State Roundtable.

#### **E. Training Improves Practice**

High-quality training programs can influence practice in positive ways. Attendees learn skills, explore new ideas in child welfare law and practice, and exchange knowledge about a field they often do not have opportunity to thoughtfully explore. The Core I and II programs that were designed by the LRWG and delivered across the state demonstrated both that programs can be delivered and that practitioners are eager to learn.

OCFC and the State Roundtable followed the guidance of the Pew Commission on Foster Care in making lawyer training a priority of their work over the last decade. The Commission wrote:

*Every attorney practicing in this field needs training beyond the limited offerings that currently exist in most law schools. The Commission calls on state courts to require that attorneys regularly practicing in dependency courts complete a multi-disciplinary training program and participate in ongoing training within the discipline and across disciplines throughout their careers. As with judges and caseworkers, this training should be multi-disciplinary so that attorneys have a clear understanding of child development, the roles and responsibilities of the various parties in a proceeding, and the methods and uses of problem-solving techniques and alternative dispute resolution. We also call on state courts, state bars, and organizations that provide continuing legal education to develop and offer such training.*

Pew Commission on Foster Care, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care* (2004) at 43-44. (“Pew Commission”)(emphasis added).

A reasonable set of training requirements should include the following:

**Initial Training:** An attorney seeking to receive appointments in dependency proceedings shall complete one introductory training of not less than six hours in the field of dependency law and practice, and one Courtroom Observation Program of not less than



three (3) hours. Initial training should be completed prior to or within three (3) months of commencing representation.

Continuing Education: Each year, attorneys must complete not less than three hours of Continuing Legal Education in the field of dependency law and practice, or related topics as described below to maintain eligibility to receive appointments.

Curricular offerings of various types in dependency practice and related topics continue to emerge across the Commonwealth, and this is an important trend that needs to continue.

As noted, each practitioner should have opportunity to observe lawyers and judges in actual cases as a form of experiential learning. Organized and well-planned Courtroom Observation Programs are invaluable vehicles for practitioners who may not have experience in this unique forum. Bar groups, legal aid offices and law schools might assist in creating and conducting these programs. To complement the training programs, jurisdictions and local bar associations should consider developing mentor programs for court-appointed attorneys who are new to dependency practice. For example, the program could designate that the new attorney work with a court-appointed mentor for one year. The relationship could include additional court observations and regular discussions about case-specific practice.

All of the institutional law offices include supervision and consultation in their practice models.<sup>3</sup> Typically, senior attorneys meet with their junior colleagues in regular scheduled sessions to review case strategy, goals and tactics. Like other law offices, these environments also facilitate dialogue and collaborative problem-solving. Few of the private court-appointed lawyers have this type of resource available to them. Discussion groups, list serves, local training programs and roundtables, and consultative “buddy” linkages all could have salutary effects without additional financial costs.

**Mission and Guiding Principle: Advocate for stable and sufficient funding to support all aspects of service delivery and account for the expenditure of all such funds.**

## **F. Caseload and Compensation Affect Quality**

1. It is generally recognized by practitioners and commentators that the interplay of compensation and caseload size has an impact on the quality of representation provided to child and adult clients in child welfare cases. The size and complexity of a lawyer’s caseload and the consequent ability to invest more time and attention are often reflected in one’s practice both in and out of the courtroom. There must be financial impunity for sound-but-aggressive advocacy; that is, no court-appointed lawyer should be sanctioned through their compensation for advocating that government spend funds on client needs. So too, the ability of a lawyer to financially support office and staff expenses, social work and investigator support, malpractice coverage and personal income can influence practice. Public funding must be sufficient to support all elements of a high-quality law practice, and yet we must also recognize that both county and court budgets are strained, making funding choices difficult for administrators across the Commonwealth. The Sub-committee considers here the complex factors that influence a lawyer’s casework, as well as various models in use around the nation, that might offer guidance for Pennsylvania policy makers as we address compensation and caseload.

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<sup>3</sup> These include, for example, KidsVoice, Allegheny County Bar Foundation Juvenile Court Project, Support Center for Child Advocates, Defender Association of Philadelphia Child Advocacy Unit, and the Pennsylvania Legal Aid Network (PLAN) agencies such as Community Legal Services, North Penn Legal Services, Southwestern PA Legal Aid.

2. *Caseload Caps*: The Sub-committee believes that a statewide model of representation should include caseload caps. Caseloads need to be weighted for complexity, numbers of children represented in a sibling group, type of proceedings/resolution (i.e., permanency hearing v. contested TPR), collateral court proceedings, and length of case over months or years. We note that many court-appointed counsel in Pennsylvania maintain a private practice, including both family law and other areas of practice. Caseload limits and standards must reflect the time that an attorney is willing and able to invest in each case due to other commitments, experience level or any other reason.
3. National organizations including the American Bar Association (ABA) and the National Association of Counsel for Children (NACC) urge lawyers and court systems to limit the numbers of cases assigned to a lawyer representing parents and/or children in dependency cases. The ABA recommends:

Trial court judges should control the size of court-appointed caseloads of individual lawyers representing children, the caseloads of government agency-funded lawyers for children, or court contracts/agreements with lawyers for such representation. Courts should take steps to assure that lawyers appointed to represent children, or lawyers otherwise providing such representation, do not have such a large open number of cases that they are unable to abide by [the ABA] Standards.<sup>4</sup>

Both the ABA/NACC standards for attorney caseloads and the California Caseload Study employ a functional analysis that essentially recommends caseloads which allow the attorney to fulfill the specific substantive duties of representation outlined in the standards.<sup>5</sup>

We use a similar approach in our Time Study Charts, discussed below. Leading non-profit agencies in Pennsylvania and across the nation similarly impose their own internal caseload caps in order to regulate and ensure high-quality practice. At least one important federal case has also addressed attorney caseload in the context of the analysis of the right to counsel for children. See *Kenny A. v. Perdue*, 356 F.Supp.2d 1353 (N.D. Ga. 2005).

4. The frequency of hearings and other reforms also impact the work responsibilities of child and parent lawyers. The decrease in time between hearings to a 90-day hearing cycle was instituted as part of a statewide reform effort and is widely acknowledged as best practice that supports achieving timely permanence for children and families. Nevertheless, more frequent hearings and their consequent waiting and prep time increases the lawyer's workload and time demands that must be considered. In addition, other well-intentioned practice reforms will also impact work demands for counsel as they entail an increase in the number of important out-of-court meetings that will occur in each case as well as add to the potential locations and travel distances of those meetings.
5. A small number of states have set forth caseload standards or caps for court-appointed lawyers. For example, following an extensive study process, the Supreme Court of Arkansas issued an Administrative order that addresses both parent and child caseloads. For child representation as

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<sup>4</sup> American Bar Association *Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases* ("ABA Child Standards"), 1996, L-1.

<sup>5</sup> *Child Welfare Law Office Guidelines: Best Practice Guidelines for Organizational Legal Representation of Children in Abuse, Neglect, and Dependency Cases*, Denver: NACC 2006; and "Dependency Counsel Caseload Standards A Report To The California Legislature," Judicial Counsel of California, Administrative Office of Courts, April 2008, <http://www.courts.ca.gov/documents/DependencyCounselCaseloadStandards2008.pdf>

“Attorneys ad Litem” the rule is that “[a] full-time attorney shall not have more than 75 dependency/neglect cases, and a part-time attorney shall not have more than 25 dependency/neglect cases.” The rule for parent representation is less specific, stating that “[a]n attorney shall not accept appointment of any case for which he or she cannot devote the requisite amount of time to comply with the above Standards of Practice and the Model Rules of Professional Conduct.”<sup>6</sup> Also, the State of Wyoming regulates caseload size of court-appointed GALs through caps that are established and administered by the court: “An attorney who contracts with, or is employed ... on a part-time basis shall not carry more than forty (40) juvenile court cases, including juvenile delinquencies, and an attorney who contracts with, or is employed ... on a full-time basis shall not carry more than eighty (80) juvenile court cases, including juvenile delinquencies.”<sup>7</sup>

6. *Time Charts*: The Sub-committee has developed the preliminary structure of two detailed Time Study Charts to summarize the quantum of time that an attorney might reasonably invest in cases involving the representation of a child or a parent. See Appendix C. The Time Charts itemize the distinct duties of child and parent lawyers and then assign time values to each task (i.e., “x” minutes per hearing @ “y” hearings per year; “x” minutes per Family Service Plan meeting, case preparation, etc.), with some differentiation for complexity of case and other factors.
7. We recommend that future work include the refinement of the Time Charts to adequately reflect the complexities and variations of dependency practice. As presented the Time Charts do not include time values. The LRWG proposes to complete this process in 2013-14, with tasks that include consultation with practitioners to improve upon the usefulness of the chart, further refine the list of duties and most importantly, discussing and reach consensus about the time values for duties, to ensure we accurately capture the time that average and special cases entail. The Charts need to reflect the content of practice, as defined by law, codes of ethics, the Practice Standards and contracts of performance that the bench and bar may establish.<sup>8</sup>
8. *Compensation*: The Sub-committee found, not surprisingly, that compensation affects quality of legal services: many lawyers experience financial pressure when making decisions about the investment of time and resources in their cases, citing the limits on rates and billing.<sup>9</sup> In many jurisdictions, compensation rates have not changed in years, or even decades. There is also widespread concern

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<sup>6</sup> Arkansas Judiciary Administrative Orders, <https://courts.arkansas.gov/rules-and-administrative-orders/administrative-orders> .

<sup>7</sup> Wyoming GALs Standards, <http://gal.state.wy.us/index.php?page=home>.

<sup>8</sup> California’s Administrative Office of Courts took a similar approach to quantifying the time required of trial-level court-appointed dependency counsel as part of representation. The 2002 Caseload Study “indicated an optimal practice standard maximum caseload of 77 cases or clients per fulltime dependency attorney and a basic practice standard caseload of 141 clients per full-time dependency attorney”. Subsequent research and analysis developed an adjusted caseload standard reflecting the impact of non-attorney staffing, specifically social workers and investigators on attorney case-carrying capacity. See “Dependency Counsel Caseload Standards A Report To The California Legislature,” Judicial Counsel of California, Administrative Office of Courts, April 2008, <http://www.courts.ca.gov/documents/DependencyCounselCaseloadStandards2008.pdf> .

<sup>9</sup> Compensation rates are typically established by county commissioners or by the court, and vary across the Commonwealth (i.e., Allegheny: \$50.00/hour; Butler: \$60.00/hour; Jefferson: \$65/hour for parents and child-conflict cases; Washington: \$50/hour; and Westmoreland \$45.00/hour. Alternatively some counties pay per hearing (i.e., Philadelphia: \$250/hearing to cap of \$500 in first year of a case, \$150/hearing to max of \$300 in second year of case, and \$60/hearing to cap of \$120/year for third and all subsequent years).

about the limits of public funding. A commitment to accountability and integrity suggests that a court or other entity responsible for appointment of counsel should be able to consider the content of service and quantity of hours that it is “buying”, and that both the lawyer and client should have reasonable and clear expectations of what is to be provided.

9. The American Bar Association *Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases* (“ABA Child Standards”) highlight the responsibility of the courts and other government entities in assuring adequate compensation of court-appointed counsel:

A child’s attorney should receive adequate and timely compensation throughout the term of appointment that reflects the complexity of the case and includes both in court and out-of-court preparation, participation in case reviews and post-dispositional hearings, and involvement in appeals. . . . Appointed counsel should have access to or be provided with reimbursement for experts, investigative services, paralegals, research costs, and other services, such as copying medical records, long distance phone calls, service of process, and transcripts of hearings as requested.<sup>10</sup>

As noted above, the “Time Charts” quantify the work of dependency representation, to provide the data to inform the study of caseload and compensation. The costs of administering a practice, including malpractice coverage, office expenses, travel to FSP and FGDM meetings, all must also be considered.

10. *Improve Billing Practice*: Court administration and others achieve elements of accountability in the billing and invoicing models that they require court-appointed counsel to use. Some courts pay a flat rate, without reference to hours worked or tasks performed. Others require more detailed invoices and time-records. With due recognition for the administrative burdens of reporting time and activity, the professionalization of billing practices can influence practice and improve the opportunity for oversight and accountability.
11. *Protect Independence*: The Sub-committee recommends that compensation of court-appointed counsel for parents and children be administered in a manner that insulates representation from undue influence and avoids both actual and perceived conflicts of interest. Scholars and professional organizations caution that compensation models and payment practices must not erode the independence of attorneys in the zealous exercise of their duties. The ABA Standards articulate the role of the courts in structuring the independence of court-appointed counsel:

To help assure that the child’s attorney is not compromised in his or her independent action, these Standards propose that the child’s lawyer be independent from other participants in the litigation. “Independence” does not mean that a lawyer may not receive payment from a court, a government entity (e.g., program funding from social services or justice agencies), or even from a parent, relative, or other adult so long as the lawyer retains the full authority for independent action. . . . [P]lans for providing counsel for children “must be designed to guarantee the professional independence of counsel and the integrity of the lawyer-client relationship.” . . . [T]here is “no justification for . . . judicial preference” to compromise a lawyer’s relationship with the child client and notes the

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<sup>10</sup> ABA Child Standards at 20, 21. See also ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases.

"willingness of some judges to direct lawyers' performance and thereby compromise their independence." <sup>11</sup>

One concern noted by the Sub-committee is the potential conflict of interest or other inappropriate pressures that may be placed on a lawyer, when funding for the lawyer's service is provided by a party-opponent or by an entity that is closely connected to that party. For example, court-appointed counsel for parents and children generally receive some form of county funding, and even the appointment process is sometimes influenced by county commissioners or other similar mechanisms. In some counties, the parent and or child lawyer's compensation is managed or dispensed by the county children and youth agency, which is also the opposing party in the dependency case at bar. A lawyer who presses the court to order the expenditure of county funds may experience undue pressures through such appointment or compensation processes.

**Mission and guiding principle: Establish and monitor accountability for all system participants.**

## **V. Making Performance Improvement Happen: Accountability and Enforcement**

This section outlines the loci of accountability, that is, who and what is responsible to make performance improvement happen, and who is to enforce the mandates of an effective program.

### **A. Judges and the Courts**

The courts must have a significant role in helping assure competent representation of children and parents.

[N]o matter how carefully a bar association, legislature, or court defines the duties of lawyers representing children, practice will only improve if judicial administrators and trial judges play a stronger role in the selection, training, oversight, and prompt payment of court-appointed lawyers" in child abuse/neglect cases. Court leadership can send a powerful message regarding the court system's accountability for children in public custody.

Pew Commission on Foster Care, *Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care* (2004) at 34. ("Pew Commission")(quoting ABA Standards).

Judges can take an active role in engaging lawyers about some elements of practice in their cases. For example, the Juvenile Act and Rules of Juvenile Court Procedure require the GAL to "meet with the child as soon as possible following assignment ... and on a regular basis thereafter in a manner appropriate to the child's age and maturity." 42 Pa.C.S.A. § 6351 and Rule 1154. The trial court may legitimately ask on the record whether and when the GAL met with the child. Similarly, a judge who determines that an individual lawyer is performing in less-than-adequate manner might direct certain actions by counsel (example: Lawyer fails to subpoena or to adequately examine key witness).

Accountability can also be achieved by non-case judicial fact-finding. When a trial court has concern about the quality of practice of court-appointed counsel, the judge could refer the matter to neutral judge for fact-finding on lawyer practice, similar to a motions or discovery court process. For example, there

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<sup>11</sup> ABA Child Standards G-1, Commentary.

may be a question about whether a lawyer has met his/her client. Counsel may feel compelled to not disclose to the trial judge that s/he did not meet client because the client was ‘under the influence’ or where the disclosure might otherwise compromise the case. Similarly, the court may need to conduct fact-finding if court administration were to receive multiple complaints about the practice or behavior of a lawyer. Court administration might track and take action upon attorneys who fail to appear on their court-appointed cases. An Administrative Judge might also reserve the right to suspend or remove for cause any attorney from the list of eligible attorneys.

## **B. Appointment Mechanisms and Contractual Performance**

Government payors (i.e., court administrator, county agencies, etc.) must be responsible for quality of the services they are purchasing. All of the institutional offices providing representation in Pennsylvania demonstrate a practice model with explicit tasks and duties to be performed, and a supervisory structure that works to ensure fidelity to their agency standards. Yet much of court-appointed representation is provided by private practitioners. One need not infer inadequate practice to recognize the disparity under the current approach in many Pennsylvania counties where, one parent or child client might receive 10 hours of lawyer service and another client with a similar fact situation will receive 100 hours of service. Standardization of service delivery is imperative.

The appointing authority (i.e., court administration) can effect a wide range of performance enhancements through both its rule-making, contracting and appointment functions. A local county court can establish initial and ongoing training requirements for court-appointed lawyers serving in its jurisdiction, and the Supreme Court can do likewise through its oversight of the Unified Judicial System. The court or other authority can embed standards of practice and other elements of performance and accountability in contracts, as discussed in Section IV above.

Various courts and counties in Pennsylvania and across the nation have implemented contract models for the engagement and management of court-appointed counsel.<sup>12</sup> Contracts and the performance standards can address the responsibility to comply with Standards of Practice or other benchmarks related to in-court appearances and out-of-court work, as well as require lawyers to obtain malpractice coverage, submit detailed and accurate invoices, and other features.<sup>13</sup>

A single point of contact for management of court-appointed counsel would also be helpful at the county level. For example, one “Attorney Liaison” or “Office of Court-Appointed Counsel” could manage many components of an accountability program. Of course, the court administrator should have a good understanding of dependency proceedings, as these may otherwise be outside their expertise and training.

## **C. Models of Engagement:** Various models of attorney engagement are in use by courts and communities around the Commonwealth. These models are generally tied to the system that a

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<sup>12</sup> For example, the City of Philadelphia includes a detailed addendum of terms and conditions in its contracts with lawyers representing the City. See “City of Philadelphia Professional Services Contract, General Provisions for Legal Services”, <https://secure.phila.gov/ECONTRACT/Documents/frmPDFWindow.aspx?docid=211211291023160211211291156071N&ext=pdf>.

<sup>13</sup> Berks County Court enters a contract each year to authorize CYS to reimburse the Court for expenses that are partially reimbursable through CYS funding sources. The contract has the following features: links the duties of the GAL to the statutory duties set forth at 42 Pa.C.S.A. § 6311; requires CYS to provide notice and information to the GALs; establishes a fee schedule for the GALs; and authorizes reimbursement of training expenses and materials of the GAL. The GALs are at will employees of the Court.

court or county uses to compensate its lawyers appointed to represent children and parents. Some feature access to non-lawyer or multi-disciplinary support such as social workers or investigators.

The models of engagement and compensation include:

1. *Inside-government staff attorney model:* Full- or part-time child or parent lawyers who are county or court employees, work in a unit of government that is organized to represent such clients. These include, for example, the Office of the Guardian ad Litem of Bucks County (i.e., lawyers represent only children in dependency cases) and Public Defender of Montgomery County (i.e., lawyers rotate through criminal, juvenile and dependency dockets). Compensation rates are typically established by county commissioners.
2. *Private agency staff attorney model:* Full- or part-time child or parent lawyers who are employees of private not-for-profit agencies that are organized to represent such clients, and the agency is funded either wholly by government funds or with mix of government and private charitable funds. These include, for example: Child Advocacy Unit of the Defender Association of Philadelphia (i.e., dependent children only); KidsVoice (i.e., dependent children only in Allegheny County); (i.e., North Penn Legal Services (i.e., dependent children only in Luzerne and Lackawanna Counties); Legal Aid of Southeastern PA (i.e., serving Bucks, Delaware, Montgomery Counties -- parents only); Community Legal Services Family Advocacy Unit (i.e., parents only in Philadelphia); and Southwestern PA Legal Services (i.e., parents only in Fayette and Washington Counties). Compensation rates are established by the private agency's board of directors or other personnel structure.
3. *Private attorney contract model:* Full- or part-time child or parent lawyers who are independent contractors of county government or court, receive lump-sum fixed rate regardless of number of cases (i.e., flat-fee or monthly stipend) to represent children or parents, while also maintaining their own private practices. Counties using some form of this model include, for example: Berks, Bucks, Chester and Jefferson. Compensation rates are typically established by county commissioners or by the court.
4. *Private attorney fee model:* Child or parent lawyers who are individually appointed, case by case, and compensated on some locally-established fee structure. This approach is often used in conflict situations where another model is also in use (i.e., agency attorney has conflict of interest, and court appoints conflict counsel).
5. *Pro bono attorney with staff support:* Private not-for-profit agencies provide case management or other support for volunteer lawyers serving clients in the dependency system, and funded by a mix of government funds and/or private charitable funds. These include, for example: Support Center for Child Advocates (i.e., children only); Montgomery Child Advocacy Project (i.e., children only); ReedSmith Adoption Program (i.e., adoptive parents only); various Legal Aid and other volunteer lawyer programs with pro bono panels (i.e., parents); and various law school clinical programs (i.e., parents and children).

**Mission and Guiding Principle: Recognize that each family is both unique and diverse and provide services tailored to its unique and diverse strengths and needs by respecting its economic, ethnic, class, cultural and religious beliefs, values, practices, and traditions.**

## D. Ethics Enforcement

The traditional role of the Disciplinary Board, Rules of Professional Conduct and the obligations of members of the bar to self-regulate the profession will remain key components of any enforcement construct in dependency court. See RPC 8.3 Reporting Professional Misconduct.

We must recognize however, that the dynamics of representing children, indigent parents and people experiencing disabilities are not associated with robust disciplinary environment. Typically, these families are unable to advocate effectively for themselves and ensure the delivery of quality services. Perhaps, too, because the communities of practitioners in most counties are so small and the number of venues limited, there appears to be reluctance to report possible disciplinary infractions of colleagues. In short, though they remain foundations of the profession for child welfare practitioners as much as for all other lawyers, the canons of ethics will be insufficient in themselves to achieve the accountability and performance that we seek.

## E. Administrative Leadership

The Administrative Office of Pennsylvania Courts (AOPC) can and must play a significant role in influencing the quality of legal representation for children and parents. As noted above, the training programs known as Core I and II that were produced and guided by the Office of Children and Families in the Courts (OCFC) demonstrated that lawyers will attend programs that the courts validate and support. Subject to its resources, OCFC along with the State Roundtable and other partners can continue to issue and promote statewide training topics and curricula. These programs both create the floor of minimum practice and goal of “best practice”. Perhaps more importantly, they create the environment for best practice advocacy and jurisprudence.

Likewise the Judicial Training Program of the AOPC can produce curricula on accountability and best-practice for New Judges School and State Trial Judges Conferences. The judges can best explore their own roles in enforcing lawyer practice rules.

We expect that at least some of the Practice Standards and other benchmarks should be adopted by Supreme Court as Rules of Court Procedure. Already many elements of sound or “best practices” are embedded in Rules and in the Juvenile Act. See 42 Pa.C.S.A. § 6311. Guardian *ad litem* for child in court proceedings.<sup>14</sup> No codification of practice duties are yet set forth for parent lawyers, but some form of statute or rule can and should exist for parent representation.

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<sup>14</sup> **(b) Powers and duties.**--The guardian ad litem shall be charged with representation of the legal interests and the best interests of the child at every stage of the proceedings and shall do all of the following:

- (1) Meet with the child as soon as possible following appointment pursuant to [section 6337](#) (relating to right to counsel) and on a regular basis thereafter in a manner appropriate to the child's age and maturity.
- (2) On a timely basis, be given access to relevant court and county agency records, reports of examination of the parents or other custodian of the child pursuant to this chapter and medical, psychological and school records.
- (3) Participate in all proceedings, including hearings before masters, and administrative hearings and reviews to the degree necessary to adequately represent the child.
- (4) Conduct such further investigation necessary to ascertain the facts.
- (5) Interview potential witnesses, including the child's parents, caretakers and foster parents, examine and cross-examine witnesses, and present witnesses and evidence necessary to protect the best interests of the child.
- (6) At the earliest possible date, be advised by the county agency having legal custody of the child of:
  - (i) any plan to relocate the child or modify custody or visitation arrangements, including the reasons therefor, prior to the relocation or change in custody or visitation; and



## F. Public Reporting Builds Transparency and Confidence

Pennsylvania can improve the performance and increased accountability of lawyers in child dependency matters through public reporting of measures that reflect the quality of practice and supports. Both local courts and the AOPC can publish statistics and other aggregate reports on caseloads, compensation, and other fields of information that would inform the public and the bar.

For example, the Pew Commission on Foster Care recommends that the courts measure and ensure markers of due process, including the timeliness of appointment of counsel, frequency of changes in representation and judicial officers, and the presence of counsel at hearings.<sup>15</sup> Every dependency court can adopt performance measures to ensure that they can track and analyze their caseloads, increase accountability for improved outcomes for children, and inform decisions about the allocation of court resources.”<sup>16</sup>

## G. Evaluation and Consumer Feedback Needed

Because the marketplace does not govern the hiring and firing of counsel for indigent parents and children, it is incumbent on the court and bar to identify strategies to receive both positive and negative feedback from both child and adult consumers regarding their receipt of services. Each court must provide an accessible single-point-of-contact for consumers and other court participants to report their problems and concerns. The AOPC should consider developing a template for consumer feedback.

Some elements of a lawyer’s performance of contracted duties can be objectively evaluated, based on clear and measureable benchmarks (i.e., appearance at hearings, filing pre-trial memoranda, caliber of feedback from consumers, etc.). Judges also could be invited to complete a periodic appraisal of lawyers who appear before them.<sup>17</sup> The well-regarded Washington D.C. program Counsel for Child Abuse and Neglect (CCAN), administered by the Superior Court of the District of Columbia, engages lawyers by contract and embeds practice standards that were adopted by the Superior Court.<sup>18</sup> We note concern with

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(ii) any proceeding, investigation or hearing under 23 Pa.C.S. Ch. 63 (relating to child protective services) or this chapter directly affecting the child.

(7) Make specific recommendations to the court relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety.

(8) Explain the proceedings to the child to the extent appropriate given the child's age mental condition and emotional condition.

(9) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court. A difference between the child's wishes under this paragraph and the recommendations under paragraph (7) shall not be considered a conflict of interest for the guardian ad litem.

42 Pa.C.S.A. § 6311.

<sup>15</sup> Pew Commission at 61.

<sup>16</sup> Pew Commission at 35.

<sup>17</sup> [EDIT] See Queens NY [??] 18B conflict counsel ...

<sup>18</sup> The following information is gathered from the website of the Superior Court of the District of Columbia and specifically sections about Counsel for Child Abuse and Neglect (CCAN) <http://www.dccourts.gov/dccourts/superior/family/ccan.jsp> and informal conversations with CCAN staff.

The CCAN office is a branch of the family court of the District of Columbia Superior Court. The office maintains a list of qualified attorneys available for appointment in dependency cases and also processes the orders appointing counsel in both new and ongoing cases. The CCAN Office also provides initial and some ongoing training to attorneys who represent children, parents, and caretakers in child abuse and neglect cases and assists attorneys who have legal and social work questions regarding child abuse and neglect cases.

a model in which judicial rating of lawyers practicing before them may discourage aggressive advocacy rather than reinforce. Therefore, judicial expectations should be communicated clearly if this approach is employed.

Child and adult recipients of legal services must be provided an official repository their complaints, concerns as well as satisfactions with the provision of legal services. In many jurisdictions there is simply no place to call. Each county and/or the AOPC should create an evaluation mechanism to assess consumer satisfaction about the performance of court-appointed counsel and to receive complaints and other feedback. A government entity must collect and aggregate multiple reports on the same lawyer. An intermediary entity such as a bar association could administer an evaluation program. Another alternative is the development of a consumer survey. However, we note that because bar associations are member organizations, these may not be readily disposed to receive complaints about nor mete out discipline of their members.

**Mission and Guiding Principle: Ensure that courts, child welfare agencies, permanent families, and all other participants in the child dependency system are provided with the necessary resources and capacity to implement these Guiding Principles and accomplish the mission “to protect children, promote strong families, promote child well-being, and provide timely permanency” in Pennsylvania.**

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The CCAN Office staff consists of a Branch Chief, who is an attorney, a social worker, and three deputy clerks. The clerical staff handles case assignment processing, financial eligibility, and inquiries. The Branch Chief and social worker provide training and support to court-appointed attorneys. In addition, they distribute a monthly newsletter with legal, training, and social work updates for attorneys. An example of a monthly newsletter is attached.

Attorneys fill out an application to be on the appointment list. These applications are only accepted at certain times of the year, and are reviewed by a committee that includes a judge. Attorneys must periodically reapply, and at that time a determination is made whether to keep them on the list. A link to the CCAN Plan, which covers the appointment process and billing, is found here: [http://www.dccourts.gov/dccourts/docs/ccan\\_plan.pdf](http://www.dccourts.gov/dccourts/docs/ccan_plan.pdf).

Attorneys approved for the panel must abide by practice standards adopted by their Superior Court which is available at [http://www.dccourts.gov/dccourts/docs/practice\\_standards.pdf](http://www.dccourts.gov/dccourts/docs/practice_standards.pdf). Attorneys are paid hourly and there are various per case caps. For example, fees for all neglect proceedings from initial hearing through disposition in a case, except termination of parental rights hearings, is capped at \$1,980 per year. Termination of parental rights cases has a cap of \$2700. The chief judge of Superior Court must approve any amount over the cap for extended or complex representation when necessary to provide fair compensation. There are also provisions for expert and investigative services, travel mileage reimbursement in connection with representation. <http://www.dccourts.gov/dccourts/docs/09-06.pdf>

## **VI. Next Steps and Recommendations to Roundtable**

The Sub-Committee recommends that the following tasks be performed over the next year, for presentation to the 2014 State Children's Roundtable:

1. A final proposal for Standards of Practice with commentary and citations be submitted to the 2014 State Roundtable.
2. A final proposal for caseload size, compensation and implementation strategies for enforcement recommendations be presented to the 2014 State Roundtable.
3. Continued examination and drafting of a process whereby standards would be financed, monitored, maintained, and accounted.

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Appendix A: Summary of Focus Groups findings and recommendations

Appendix B: Standards of Practice

Appendix C: Time Charts

Appendix D: Research Items and Links

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**2013 Report of the Legal Representation Workgroup  
on Standards of Practice, Caseload and Compensation for Lawyers in Dependency Cases in  
Pennsylvania**

**APPENDIX A  
Themes and Responses Stemming from Focus Groups and Surveys  
Classified According to the Proposed Seven Domains**

**I. Client Contact – “Speak to me, before speaking about me.” (a youth focus group respondent)**

All three groups of respondents provided multiple and in-depth recommendations to the client contact domain. The responses were so varied that the responses were divided into several sub-categories including frequency, timing, content, circumstances and rapport.

**A. Frequency**

Lawyers commenting on this category offered that the frequency of contact should be dependent upon the particular needs of the case. However, a few lawyers recommended that once a month between lawyer and client is an appropriate standard. Parent and youth focus group respondents provided more specific recommendations including once a week from one parent respondent. Other parents reported that twice a month contacts were “required” in their jurisdiction, but this standard was not enforced. Youth respondents expected frequent or “constant” contact and recommended a range of contacts from one or twice a week to once a month. One youth respondent recommended contact with the lawyer or guardian ad litem to be “not too often, only when something needs to be discussed.”

**B. Timing**

Generally, both lawyers who represent children<sup>1</sup> and parents agreed that they should be in contact with their clients at the beginning of the case, before every hearing and on a regular basis. Other lawyers recommended that contact should occur at appropriate case stages. Parents’ lawyers defined appropriate stages as two weeks or a reasonable time prior to the hearing. Lawyers representing children identified appropriate stages to include a change in living situation and in response to an emergency. Parents and youth respondents echoed the lawyers’ remarks stating that contact should occur in time to allow for preparation for court and gathering evidence. Parent respondents requested that their lawyers give them a “heads up” regarding how long it will take them to respond. Both parent and youth respondents requested that their lawyers return their calls promptly. Youth respondents specifically requested contact within three days after the youth has contacted the lawyer and for them to be accessible if the youth needs them between court hearings. One youth conveyed the sentiment of the entire group with his comment regarding timing, stating: “speak to me, before speaking about me.”

**C. Content**

Lawyers frequently identified explaining the basics to the client and making sure they understand the court process as the substance of the content of their contact with their clients. They also recommended that they

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<sup>1</sup> Unless otherwise noted, we use the term “lawyers who represent children” to include both guardians *ad litem* (GALs) and lawyers serving in the role of counsel for the child.

provide contact information and obtain the client's opinion during their contact with their clients. A children's lawyer also recommended that they determine whether the child client was cared for properly during their contact with clients.

Parent respondents agreed that the content of their contact with their lawyers should include the identification of the goals and direction of their cases. In addition, parents repeatedly identified the desire for their lawyers to inform them of what to expect in court. They also wanted their lawyers to clarify the difference between their responsibilities and those of the lawyers. They also expressed a desire for legal advice regarding their rights, the court process and the purpose of different hearings. Parents wanted to know how they can "put their best foot forward" and demonstrate proper decorum in court. Parents also wanted to know more about their lawyers such as how long they had practiced, their experience in child welfare cases, caseload size and disciplinary actions.

Youth also expressed interest in their lawyers' background and experience. They also wanted legal advice and to understand the legal ramifications of their behavior and what to expect in court. Youth identified specific and pragmatic concerns regarding their out-of-home placement. They wanted to know what it would take to leave their [out-of-home] placement and the probability of being reunified with their parents. They wanted to know which relatives their caseworkers and lawyers had contacted, why they couldn't stay with those relatives and what options other than adoption were available. They wanted to know the exact behavior expectations for them to stay out of placement and an estimate of the time they would remain in their out-of-home placement. Youth also wanted to know how they could earn more privileges. Youth also wanted their lawyers to find out from them (the youth) what they thought about the hearing. Most importantly they wanted their lawyers to let them know what would happen in court, if they knew, before the court hearing. One youth shared the painful and uncomfortable experience of learning after the hearing what everyone knew beforehand, including the youth's lawyer, that the mother's parental rights would be terminated and the father would voluntarily relinquish custody.

#### **D. Circumstances**

Circumstances of the contact between the lawyers and clients encompassed the location and conditions. Lawyers representing parents identified their office as the primary location for the interview. Lawyers representing children and youth identified a variety of locations for interviews including school, living environment, shelter or crisis placement. Lawyers agreed that their interviews should be in private and face to face. They reported that they should make diligent efforts for the first contact and reasonable efforts for subsequent content. Lawyers representing older youth added that contact with this age group should be child friendly and developmentally appropriate.

Some parents described the quality of contact with their lawyers as lacking. One couple challenged other parents insisting that they had responsibility for the quality of the contact with lawyers. These parents stressed the need for parents to be pro-active and take responsibility for providing lawyers the information and records they needed. Other parents agreed, stating that they should speak up and communicate with their lawyers about what they wanted. Parents also reported that they were responsible for ensuring that their lawyers are doing their job.

Youth reported that they wanted their lawyers to speak directly instead of through their caseworker. They wanted their lawyers to be available to speak to them at court. Regardless of their age, the youth expected that the lawyer contact with the child and that the contact should be confidential.

## **E. Rapport**

The rapport category was added to encompass comments that were introduced by both parents and the youth, but not by the lawyers. These comments reflected the parents and the youth interest in their relationship with their lawyers. Parents wanted their lawyers to establish a good relationship and good communication with them, “be on the same page with me” and “recognize my goal and work on it.” Parents wanted their lawyer to recognize their feelings of violation. Once parent asked that her lawyer “not to react to me as if I am a burden.” This last remark conveyed the parent’s sense of frustration when the lawyer dismissed her realistic concerns associated with the challenges in acquiring housing.

Several youth responses identified as reflecting an interest in their rapport with their lawyers included: “don’t just talk at me”; “have an open ear”; “care about me, the people around me, my family, friends and foster parents”; “be family oriented”; and a recommendations to take time to get to know the youth personally. Youth also expressed concern regarding being exposed to their lawyers’ conflict with other’s in their lives that they may trust such as their caseworker. Youth advocated for their lawyers to work as a team with their other providers.

## **II. Expertise and Knowledge – “The court should take care to appoint only qualified and trained practitioners.” (a lawyer focus group respondent)**

Several themes frequently surfaced in the focus groups regarding the appropriate expertise and knowledge of lawyers in child dependency cases including child and parent, legal, resource and human service related knowledge and several skill areas. Lawyers also identified sources for obtaining this knowledge.

### **A. Knowledge of child and parent**

Lawyer participants agreed that when practicing in child dependency cases, knowledge of child development and trauma was critical. Lawyers representing children advocated that they have specific knowledge of their clients’ lives outside of court. Both lawyers who represent children and parents reported that they should have knowledge of the client’s files.

Parents reported that their lawyers should have knowledge of the specific of their case. The youth’s responses focused on a desire that their lawyers really knew them. They wanted their representatives to know the “entire picture” of their case, that they looked at thing through their (youth’s eyes) and “knew where they were coming from.” The youth also wanted their lawyers to be familiar with their parent’s mental health and to take this factor into account in their advocacy. Youth thought it was important for their lawyer to know what type of child abuse was involved in their situation.

### **B. Legal Knowledge**

It is apparent that lawyers agreed that knowledge and expertise of areas of law was critical to effective practice in child dependency cases including the Child Protective Services Law, the Juvenile Act and the Juvenile Court Rules. Lawyers also identified additional areas of including family, education and special education; rules of evidence and conflict; child welfare regulations; and relevant case law.

### **C. Resource and human service related knowledge**

Lawyers identified resources and human services related knowledge as important to effective representation. Knowledge areas that were frequently identified included the dynamics and services associated with

homelessness, domestic violence, substance abuse, mental health, delinquency and group homes. Knowledge regarding the children and youth agencies and the corresponding resources were frequently mentioned.

Parents agreed that they would like their lawyers to know where to refer them for resources and services. Youth wanted their lawyers to know the options for placements and other resources.

#### **D. Skills**

Lawyers consistently identified skills such as interviewing, negotiation, mediation and litigation as important. When representing children, lawyers added that it was important to be comfortable with children and to enjoy working with them.

Parents identified court related skills that they expected to see in lawyers including demonstrating leadership in the courtroom, asserting parents' rights, questioning the judge regarding the basis for decisions and challenging the judge when clients disagree with the decision. Parents also expected their lawyers to be skilled at recognizing errors and false information in documents and correcting them in and out of the court room. They wanted their lawyers to advocate effectively and obtain services for the parents. Parents also identified the ability of the lawyer to present options and alternatives to parents as a very important skill. Youth identified important lawyer skills to include being focused, displaying skill and knowledge in the courtroom and recognizing when and how parents intimate youth.

#### **E. Resources for developing knowledge and skill**

Lawyers identified resources for them to obtain technical assistance in developing knowledge and skills to practice in child dependency cases such Administrative Office of the Courts (AOPC), the Juvenile Law Center and the Education Law Center. Lawyers had varied and differing opinions regarding initial and ongoing training requirements. Most lawyers supported a minimum training requirement before a lawyer represents clients in in these cases with some advocated for minimum training requirement before a lawyer begins to represent clients in child dependency court. Others recommended that only those lawyers possessing relevant background and training should be placed on lists qualified lawyers available for appointment. Lawyers expressed differing opinions regarding establishing ongoing training requirements. Several lawyers supported continuing legal education expectation, while others did not. Some lawyers insisted that standards for the children's lawyer and the parent lawyer should be the same. A few lawyers recommended the creation of certification requirement for practicing in child dependency court.

### **III. Case preparation – “Look at all views before making judgments” ( A youth focus group respondent)**

Lawyers' remarks regarding case preparation also were divided into several sub-categories including court hearing, timing and evidence.

#### **A. Court Hearings**

Case preparation for court hearings, according to many lawyers, included preparing court forms, orders and/or procedures for each particular hearing. In addition, the lawyers identified the importance of preparing formal discover, compliance letters for parents and mandatory disclosures. Lawyers also emphasized explaining to clients their situation as an important case preparation activity.

Youth identified several specific activities that they viewed as essential for their lawyer's court preparation including: informing the youth of what will be discussed in court by all of the participants and determining the youth's position on all matters, including visitation. Youth wanted their lawyers to educate and coach them on courtroom procedures and what will be asked of them in court. Youth also identified their lawyers to be responsible for making sure that their family and "all the players" were present in court. Youth emphasized the importance of their lawyer to involve and listen to other parties, foster parents, siblings and others before making decisions. "Look at all views before making judgments" one youth asked.

### **B. Timing**

Lawyers reported that the timing for case preparation should occur three weeks in advance and that a "discovery and information packet" should be provide to all counsel at least three days prior to the adjudicatory hearing.

### **C. Evidence**

Lawyers stated that they should engage in a motion practice for the production of documents and automatic discovery when a goal change occurs. Lawyers identify several types of evidence that should be gathered and acquired in preparation for court including full and complete children youth service agency files, documents and records including: correspondence, family service plan and safety plans. Lawyers also reported that they should obtain social media, criminal, medical and mental health records. In short, lawyers reported that they should obtain "as much information as possible." Several of the lawyers emphasized the importance of obtaining information directly from their clients regarding their histories, including personal needs beyond court. Lawyers also identified the importance of identifying and contacting witnesses, especially anyone who is involved with the child or has relevant information, including: the caseworker, family, friends, service providers, schools, mental health providers as well as the parent, with the parent's lawyer's permission. Lawyers emphasized the need to ask their clients to identify possible witnesses and also to identify expert witnesses.

## **IV. Advocacy – "Take control of the floor." (A parent focus group respondent) "Be my champion in court." (A youth focus group respondent)**

Advocacy responses from the focus groups were divided into two sub-categories, in court and out of court.

### **A. In Court**

Some lawyers reported that following ethic rules and using good judgment was sufficient to guide their advocacy. Other lawyers opined that effective advocacy included conducting themselves with civility and professional decorum. Another offered to be an effective advocate one needed "to be there in person." Lawyers also provided more specific guidance for advocacy including demonstrating persuasive trial advocacy skills through effective questioning; conducting direct and cross examination; raising objections, as appropriate; challenging witnesses testimony and evidence; requiring authors' of reports to be present to testify regarding their findings and reports; and litigating the content of the court order. Some lawyers stressed the need to advocate for their adult clients to "have a seat at the table" and to advocate for their client's wishes both parents' and children's'. Another lawyer reported that demonstrating effective client management skills was an important component of client advocacy.

Parents identified several examples of advocacy skills in court for lawyers. Overall they reported that they wanted their lawyers to be aggressive on their behalf and to "take control of the floor." Specifically, parents



wanted their lawyers to inform the court of their wishes and ask the court to permit them to speak in court. They also wanted their lawyers to inform the court when they have completed court ordered tasks. Parents wanted their lawyers to argue for prompt resolution of the process and delivery of services and against duplication of services. They wanted their lawyers to identify for the court that resources going to the foster parents should be going to the parents. Parents frequently wanted their lawyers to advocate for unsupervised visitation. Some parents emphasized that their lawyers should argue against expanding goals beyond the original reason for their child's removal and against unrealistic expectations. Parents also wanted their lawyers to communicate the parent's concerns about the safety and well-being of their children while in out-of-home care. They wanted lawyers to challenge safety determinations and to argue for the conclusion that their children can be safe in the parents' homes. Parents also echoed the lawyers' comments regarding advocacy including appropriate courtroom decorum.

Youth also provided numerous suggestions for advocacy by their lawyers. Youth wanted their lawyers to "put their heart into it," "to fight hard," "to be speak up," and "to be my champion in court." They also wanted their lawyers to advocate for children and youth services "to pick up the pace." Youth also wanted their lawyers to help them speak up in court, help them rephrase what they want to say or explain why they cannot speak in court. Most of the youth participating in the focus group and responding to the survey clearly understood the dual role of the guardian ad litem who both advocated for their best interest and communicated their wishes to the court. The majority of the respondents wanted their lawyers to advocate for their best interest regarding visitation and to make sure the youth is not abused again. They recognized that the youth's desires may not always be in their best interest. However, one youth expressed the sentiment that the guardian ad litem should "try 100 percent to get the youth what they want." Youth also reported that they wanted their lawyer to advocate for them to receive clothing and medical appointments and to "call out false information" while in court.

## **B. Out of court**

Lawyers identified advocacy efforts that should occur outside of the court room many of which were previously identified in case preparation domain including: filing appropriate motions, seeking and obtaining witnesses and other trial preparation duties. Lawyers representing children also identified the importance of ensuring that their child clients are in attendance in court unless an appropriate exception exists. Lawyers identified the need to attend pre-trial conferences and meetings designed to obtain a consensus or settlement. They recommended attendance at family group decision making, school, transitional and treatment meetings. Lawyers also identified advocacy out of court to include monitoring compliance with court orders, ensuring that the client receives court-ordered services and identifying kinship care resources for the youth.

Parents identified out of court advocacy to include their lawyers taking the time to call, meet and explain things to them. They reported that their lawyers in advocating for them should provide them the court order and advocate for service delivery that address the goals and monitor compliance with the court order. Parents expected their lawyers to do whatever is reasonable and within the law and to protect their confidentiality. They wanted their lawyers to recognize if a caseworker or service provider was biased and assist them in overcoming this bias including obtaining a new service provider, if appropriate. They also wanted their lawyers to make sure that their children received the court ordered services and that their child's out-of-home placement was safe. Parents also wanted their lawyers to alert them to what would be recommended in court, if known, prior to them learning about it in the court hearing.

Youth identified very specific tasks for their GAL and lawyers to support advocacy outside of the court hearing. They expected their lawyers to meet with them at their placements and to advocate for them to receive privileges when they deserved them. Youth wanted their lawyers to take an active role in their visitation. According to one youth, “if I want to visit my parent, my guardian ad litem should advocate for it.” Youth asked that their lawyers collaborate with everyone else in their lives and to assist the youth aging out of foster care. Youth also expected their lawyers to help them understand when the court has made a decision in their best interest and the youth does not agree or to find someone else who could help them understand.

**V. Collateral Contacts and Collaboration – “I don’t like it when my guardian ad litem criticizes my caseworker.”**

Lawyers identified a role for the court in facilitating contacts and collaboration by providing the lawyers a list documents to be produced. Lawyers reported that they were responsible for facilitating collaboration and that they should accomplish this by contacting and interviewing individuals involved including the child welfare professional, probation officers, case aids and other professionals. Some parent lawyers agreed that they should contact their clients’ family members to identify alternative placement resources. Lawyers who represent children reported that they should be required to confer with foster parents and should see the child before every hearing. Lawyers also identified participation in meetings as included in collaboration including pre-trial conferences, mediation, family finding meetings and family group decision making. However, other lawyers reported mixed feelings about participating in some of these meetings if the other lawyers in the case were not present. Lawyers also reported the importance of meeting with and collaborating with the other lawyers through phone calls, emails and meetings to narrow the scope of the hearing.

Some youth reported that they wanted their lawyers to meet with the youth and the caseworker together. They expected their lawyers to collaborate positively with their caseworker and others who were trying to help the youth. In particular, they asked that their lawyer not criticize their caseworker, who the youth trusts.

**VI. Appellate – “Lawyers for children should file an appeal, when appropriate” (Lawyer focus group respondent)**

Lawyers in the focus groups reported that it is important to preserve the record for appeal and advise their clients of the right to appeal. Most lawyers agreed that when a client asks for an appeal the lawyer is obligated to file it. Others reported that filing an Anders Brief, when there is no appealable issue, is appropriate. Lawyers also reported that asking the court for reconsideration is also appropriate. Lawyers agreed that lawyers who represent children should also file appeals and that briefs should be timely, legible and provide a clear identification of the issues. Other lawyers reported that adhering to the superior court standards was sufficient for appellate practice and additional guidelines were not needed in this area.

Regarding appeals, parents reported that they wanted their lawyers to find out the basis for the judge’s decision and to challenge the judge’s decisions if the client disagrees. They wanted their lawyers to expedite the appeal process by requesting earlier court dates. Youth also wanted their lawyers to say something to the judge when they disagree with the decision. They also wanted to know if they can request a different judge, and if not to explain why not.

## VII. Ethics

Lawyers reported that ethical conduct included the requirement that they collaborate with other lawyers and the caseworker. In addition, they reported that they should not engage in *ex parte* conversations with the court. Providing truthful and accurate information, explaining the limits of confidentiality and informing the client of the lawyer's role were also identified as ethical practices. Lawyers identified the presentation of facts, not personal opinions as ethical conduct. Lawyers also opined that ethical conduct included obtaining knowledge and expertise to practice in child welfare cases and performing their role with precision according to the law and rules. Lawyers serving as GALs reported that they must advocate for the child's best interest and the child's position, even when they disagreed, and questioned whether this was ethical conduct. It was noted that it was ethical to request the youth to be appointed a separate lawyer when appropriate. Many lawyers reported that a system for recognizing conflict of interests and how to resolve them represented ethical conduct. Several lawyers who represent children reported that speaking with the parent or caregiver parties represented unethical conduct. However, other lawyers reported that parents should be informed of the limits of the children's lawyer in speaking to them.

Parents, when asked what did ethical conduct of their lawyers look like, provided several examples including that the lawyer "keeps their word, do what you say you will do;" "keep confidentiality;" "stand your ground in court;" and "provide realistic, not false expectations." Parents viewed a lawyer who stands up for the client and listens to the client and makes their voice heard as engaging in ethical conduct. Parents also provided their opinions regarding the ethical conduct of lawyers who represent children, stating that the child's lawyer should always meet with the child; see the child in their out-of-home placement; not view the parent as the enemy; be courteous to the parent; not limit their position to the records and the caseworker's report; speak to the parents, get to know them and their position directly; represent the child's best interest; and not impose unrealistic expectations.

Youth provided an extensive list of attributes that they associated with ethical behavior including honesty, professionalism, fair and respectful. Conduct that youth associated with ethical behavior included: "going to bat for the youth, no matter what," be a voice for the youth, understand the youth, fight for positive things for the youth and do your job no matter what. Youth also viewed as ethical conduct the guardian *ad litem* making decisions based on the child's well-being and what the child wants if the child is a reasonable age. Sharing all information with the youth was identified as ethical conduct.

## VIII. Barriers "Lawyers are overworked and have too many cases." (Parent Focus Group Respondent)

Throughout the focus group, the lawyer focus group participants were asked to identify the barriers that believed interfered with accomplishing the standards or activities they associated with each particular domain. Parents and youth were also asked to identify barriers, however they identified very few. The barriers that were identified were divided into several sub-categories including, caseloads, compensation, communication, service and resource, client related, lawyer related, and the court.

### A. Caseloads

One of the few barriers identified by parents was also consistently cited by the lawyer focus group respondents, lawyers have too many cases. Consequently, they do not have enough time, according to the parents, to defend them, advocate for the youth and investigate the youth's circumstances. The lawyers agreed reporting that time constraints due to high case loads prevented them from seeing their clients as often

as they would like and attend meetings and pre-trial conferences. The lawyers identified the lack of caseload standards and part-time status as contributing to the excessive caseloads. Some lawyers reported difficulty balancing part-time representation of court appointed clients in dependency court while balancing a full private caseload. One lawyer reported that an individual caseload of 350 children was standard for lawyers representing children in his county.

## **B. Compensation**

The second frequently identified barrier to accomplishing the proposed standards was inadequate compensation for dependency court representation. Lawyers identified low pay as a barrier to their ability to invest time and money in training programs designed to increase their knowledge and skills. Lawyers practicing outside of an agency setting consistently reported that they were not compensated for activities associated with their legal representation such as interviewing the client, witnesses, and service providers. Some lawyers reported that they were discouraged from billing for actual costs and expenses of their legal representation. In cases where lawyers were paid contractually their caseload was not connected to their compensation. For instance a few lawyers reported that they were provided one flat fee with the expectation that they represent an unlimited number of clients. Lawyers also reported that there was a lack of clarity about what can be billed and how they would be compensated in the event of an appeal.

## **C. Communication**

Lawyers consistently expressed frustration with communication barriers that they viewed as interfering with them providing effective advocacy. In some instances lawyers reported that there was a lack of clarity regarding who is responsible to provide them contact information for their clients when they are first appointed.

Lawyers reported difficulty in gaining access to records, excessive redaction of records, obtaining current and complete information and timely receipt of important new information, reports and addendums prior to court hearings. Lawyers reported that delayed or no communication regarding meeting times and locations also interfere with their ability to attend these meetings on their client's behalf. They also report that they are sometimes prohibited from attending meetings by school personnel and other providers. Lawyers also identified privacy issues and lack of access to information regarding evaluators and authors of reports as barriers to communication.

Parent lawyers pointed out the inequality in communication when the child and youth service worker and the solicitor, who represents them, can have direct access to information from the parent's file and the parent, whereas the solicitor can effectively block the parent's lawyer access to the caseworker and their files. These lawyers advocated for the development of rules of access and communication.

Lawyers also identified decision making through teaming as interfering with communication. They reported that these decisions are too heavily directed by the county and when the lawyer is excluded parents are encouraged to make commitments without benefit of counsel.

Lawyers who represent children reported several challenges associated with advocating for child clients including: communicating with foster parents who are unfamiliar with their role as the child's legal representative; obtaining timely information regarding their child client's change in placement; and speaking with their clients who are not brought to the court hearing;

#### **D. Service and resource**

Lawyers identified several barriers associated with the delivery of services and existence of resources including the child not being brought to court hearings, the continuity of providers, family service plans that are boilerplate and don't reflect the unique needs of their clients and existence of bias directed towards their clients as barriers. Some lawyers identified the lack of access to interpreters to support interviews and writing letters as a barrier. These lawyers proposed that the appointment of an interpreter should be identified on court orders. Another lawyer reported that the "Interpreter Act" provides for payment of interpreters. Lawyers identified the unavailability of support staff, appropriate space to meet with clients and resources to conduct depositions as problematic.

#### **E. Client related**

Lawyers in all focus groups identified client related deficits that they believed would present barriers in meeting standards identified in the seven domains. Lawyers consistently identified parents who do not stay in contact with their lawyers provide or update contact information or respond to letters from their lawyer as problematic. Some parents, according to lawyers, do not timely apply for eligibility for legal representation. Many lawyers identified challenges associated with reaching out to unavailable parents due to distance, incarceration or disability as a barrier. Lawyers reported difficulty in arranging for incarcerated parents' transportation to court or being available by phone. Some lawyers pointed out the need "to pick up the slack" with indigent parents who need resources such as phones and bus passes to access legal representation. Lawyers also identified those parents who seem to not to be interested in their case who they "must pester" and can't force to cooperate or want to be represented. "You can't assume clients will want to fight the county's case," one lawyer reported.

#### **F. Lawyer related**

Lawyers identified several lawyer related factors that present barriers to the achievement of standards including their unfamiliarity with the relevant laws. However, this unfamiliarity was reported to be due to the excessive amount of information in dependency law and the lack of relevant continuing legal education. Part-time lawyers practicing in this area were identified as not sufficiently knowledgeable in dependency law. It was also pointed out that there is a deficit of lawyers wanted to practice in this area. "No one wants to do this practice," said one lawyer. The existence of unprofessional conduct was directly identified as a barrier by many lawyers. Identified unprofessional conduct included: unwillingness to collaborate, to file appeals, and establish pre-trial or meeting practice. Pro se parents, who don't what to do or file frivolous appeals, were identified as a barrier to achieving permanency. A concern for professional was identified in youth's remark that "I don't like it when my guardian *ad litem* criticizes my caseworker."

#### **G. Court**

Lawyers identified several barriers associated with the court's handling of dependency cases including that judges do not hold parties accountable by enforcing standards and permitting court summaries and reports to be handed to lawyers at the time of the hearing. Parents also identified their perception that judges do not hold lawyers who represent children and parents accountable for a job done poorly. Some parents reported that judges expect them to "beat the bushes to find clients." Lawyers also fault the criminal approach in

dependency cases as a barrier to effective advocacy. Court orders that do not reflect the judge's decisions, the slow process prolonging permanency and a jurisdiction of not providing a judge until the termination of parental rights was presented as a barrier.

Lawyers reported that some court administrations delay in providing contact information to lawyers at the time of appointment, adequate notice of hearings and a determination of parents' eligibility for representation presents a barrier for them in promptly contacting and representing clients. Some lawyers reported that not all court administrations keep track of which lawyer is appointed to which parent by maintaining a list of court appointments. Docketing practices presents a barrier according to some lawyers. "Long waits for hearings, wears down lawyers' commitment to do this work."

Some lawyers identified the differential response to the representation of parents and children as a barrier. Some lawyers who represent children perceived the structure of the dual role of the GAL and counsel, where the lawyer serves as both an advocate for best interest and the child client's wishes as problematic. Parent lawyers reported that the fact there is no companion text for representation in the Juvenile Act as a barrier to effective representation of parents.

## **Parent Focus Group Questions**

1. What do you think a lawyer's contact with a parent should look like? **(Client Contact)**
  - Prompting questions, only if needed:
    - Timing: Before, during or after court?
    - How often?
    - How soon after the parent has contacted the lawyer with a question?
2. What kinds of information do you think a lawyer should provide a parent? **(Client Contact, Expertise and Knowledge, Case Preparation)**
  - Prompting questions, only if needed:
    - How the court process works?
    - The allegations or charges in the petition?
    - Explanation for the judge's decision?
    - What do you wish your lawyer had told you before, during or after the court hearing?
3. How do you think a lawyer should get a parent services or visitation with children? **(Expertise and Knowledge, Case Preparation, Advocacy)**
  - Prompting questions, only if needed:
    - Out of Court
      - Consult with the parent to determine the parent's decision/position regarding the case?
      - Provide contact information for services?
      - Contact CYS or other service providers regarding providing the parent services
      - Providing information regarding visitation rights?
    - In Court
      - Presenting in court the parent's position and wishes?
      - Filing a motion or presenting in court a request for certain services?
      - Filing a motion or presenting in court a request for visitation?
4. What else should a lawyer do to represent a parent in court? **(Case Preparation and Collateral Contacts and Collaboration, Advocacy)**
  - Prompting questions, only if needed:
    - Out of Court
      - Contacting and interviewing the parent's witnesses?
      - Contacting and interviewing the other parties' witnesses?
      - Obtaining and reviewing all records related to the parent's case?
    - In Court
      - Presenting the parent's witnesses, records and evidence?
      - Questioning and challenging other witnesses?
5. If a parent disagrees with the outcome of the case, what should a lawyer do to help the parent? **(Appellate)**
  - Prompting questions, only if needed:
    - Inform the parent of any rights of appeal?
    - File an appeal if that is the parent's decision?
    - Inform the parent whether the case is a good or bad one for an appeal?
6. What does it look like when a lawyer representing a parent is being fair or honest? **(Ethics)**

- Prompting questions, only if needed:
  - The lawyer has provided the parent truthful and accurate information?
  - The lawyer has not told the parent or supported the parent in lying in court or to other parties.
  - The lawyer tells parent same thing in the office or hallway that he/she tells the judge, other lawyers, and caseworkers in court?
  - The lawyer does not repeat confidential information to other people without the parent's permission?

7. What else do you think a lawyer should do when representing a parent?

### **Child Focus Group Questions**

1. What do you think a lawyer's contact with a child/youth should look like? **(Client Contact) -**

- Prompting questions, only if needed:
  - Timing: Before, during or after court?
  - How often?
  - How soon after the child/youth has contacted the lawyer with a question?
  - *What kind of questions should a lawyer ask?*

2. What kinds of information do you think a lawyer should provide a child/youth? **(Client Contact, Expertise and Knowledge, Case Preparation)**

- Prompting questions, only if needed:
  - How the court process works?
  - *How should a lawyer explain what is going to happen and what is happening in the courtroom?*
  - *Explaining the judge's decision?*
  - What do you wish your lawyer had told you before, during or after the court hearing?
  - *Who is in the courtroom and what is their role?*

3. How do you think a lawyer should get a child/youth visitation with his/her parents or family? **(Expertise and Knowledge, Case Preparation, Advocacy).**

***Should it be a formal or informal process? What would be your first choice for best practice?***

- Prompting questions, only if needed:
  - Out of Court – *(Preferred Method)*
    - Consult with the child/youth to determine the child/youth's decision/position regarding the case? And whether the child want's visits
    - *How will Transportation be arranged?*
    - Provide contact information for services?
    - Contact CYS or other service providers regarding providing the child/youth services
    - Providing information regarding visitation rights?
  - In Court
    - Presenting in court the child/youth's position and wishes?
    - Filing a motion or presenting in court a request for certain services?
    - Filing a motion or presenting in court a request for visitation?



4. How do you think a lawyer should get a child/youth services that are needed? How should a lawyer get a service or resource to stop if it is no longer working or effective?

5. What else should a lawyer do to represent a child/youth in court? **(Case Preparation and Collateral Contacts and Collaboration, Advocacy)**

Note: "Youth may be more likely to answer, "listen to what I have to say" than actual legal steps in the process.

- Prompting questions, only if needed:
  - Out of Court
    - *Contacting and interviewing the child/youth's witnesses?*
    - *Contacting and interviewing the other parties' witnesses?*
    - *Obtaining and reviewing all records related to the child/youth's case?*
  - In Court
    - *Presenting the child/youth's witnesses, records and evidence?*
    - *Questioning and challenging other witnesses?*

6. What would make it more comfortable and less intimidating for a youth? Entering Court, talking to lawyers, speaking with the Judge?

7. If a child/youth disagrees with the outcome of the case, what should a lawyer do to help the child/youth? **(Appellate)**

- Prompting questions, only if needed:
  - Inform the child/youth of any rights of appeal?
  - File an appeal if that is the child/youth's decision?
  - Inform the child/youth whether the case is a good or bad one for an appeal?

8. What would a fair and honest lawyer say or do while representing youth? **(Ethics)**

- Prompting questions, only if needed:
  - The lawyer has provided the child/youth truthful and accurate information?
  - The lawyer has not told the child/youth or supported the child/youth in lying in court or to other parties.
  - The lawyer tells the child/youth the same thing in the office or hallway that he/she tells the judge, other lawyers, and caseworkers in court?
  - The lawyer does not repeat confidential information to other people without the child/youth's permission?

9. What else do you think a lawyer should do when representing a child/youth?

- *Any additional ideas?*

**2013 Report of the Legal Representation Workgroup  
on Standards of Practice, Caseload and Compensation  
for Lawyers in Dependency Cases in Pennsylvania**

**APPENDIX B  
Standards of Practice  
Discussion Draft – May 2013**

The Legal Representation Work Group (LRWG) was charged with drafting recommendations for specific Standards of Practice for lawyers representing children and parents in dependency proceedings. The following “Discussion Draft” is offered to demonstrate the considerable progress made and remaining work to be completed. Additional questions and topics to be addressed include: a) determining whether it would be more beneficial to have one set of Standards applicable to all dependency lawyers or to have separate Standards for lawyers for parents and for lawyers for children,<sup>1</sup> b) incorporating some relatively new responsibilities for lawyers for children, for example relating to education; c) completing a draft of useful commentaries for Standards that could benefit from further explanation or guidance; and d) locus and application of the Standards.

Comments may be provided to:           [fill in]          .

**Practice Standards & Commentary**

**1) Client Contact:**

*Initial Contact*

**a. Establish and maintain a working relationship with the client.**

Commentary: Attorneys should explore the client’s situation, interests, preferences, and wishes. [Note: The commentary for this section will be further expanded to reflect the different roles of lawyers for parents and lawyers for children.]

**b. Explain your role as the client’s legal representative.**

Commentary: Attorneys should explain their role, including the rules concerning confidentiality and any limitations on confidentiality. They should also avoid potential conflicts of interest that would interfere with the competent representation of the client, for example, representing both parents. [Note: The commentary for this section will be further expanded to reflect the different roles of lawyers for parents and lawyers for children.]

**c. Explain in a developmentally appropriate manner the initial allegations and what will happen in court.**

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<sup>1</sup> Unless otherwise noted, consistent with the report, we use the term "lawyers who represent children" or "lawyers for children" in the draft standards to include both guardians ad litem (GALs) and lawyers serving in the role of counsel for the child.

Commentary: Attorneys should determine whether the client possesses any unique cognitive, developmental, language or other attributes that may impair the client's ability to understand English or to fully participate in the legal process and implement strategies or obtain services to support the client's understanding and full participation. Explanations to child clients should be provided in developmentally appropriate manner at each stage of the legal proceedings. [Note: The commentary for this section will be further expanded to reflect the different responsibilities of lawyers for parents and lawyers for children.]

**d. Consider the client's background and its impact on the case.**

Commentary: Attorneys should act in a culturally-competent manner and with due regard to the client's unique cognitive, developmental, language, socio-economic condition and other attributes.

***Ongoing Communication***

**e. Establish a system that promotes regular client-attorney contact.**

Commentary: Attorneys should establish a system that enables communication between client and attorney to be regular, timely, and adequate to engage and support client's active participation in the legal process. This communication can include, but is not limited to, contact in person, contact by phone, fax, letter, electronic communication like e-mail and text, and other effective methods. Contact is established timely and with sufficient frequency to support adequate preparation prior to court dates and important meetings.

**f. Meet with your client regularly.**

Commentary: If the client is a child, attorneys should meet with their child client where they reside unless circumstances dictate that they should meet with them at school or in the community. Attorneys should explain in developmentally appropriate manner the nature of each stage of the legal proceedings. Client meetings should occur well in advance of court dates to allow for adequate preparation and should occur with regular frequency and when a client changes placements, has a case related problem or an emergency. [Note: The commentary for this section will be further expanded to reflect the different responsibilities of lawyers for parents and lawyers for children.]

**g. Support and empower adult clients in directing the course of legal representation and in making informed decisions.**

Commentary: Attorneys should understand and protect the adult client's right to information and decision-making while the child is placed in out of home care. [Note: The commentary for this section will be further expanded to reflect the different responsibilities of lawyers for parents and lawyers for children.]

**h. Discuss any settlement proposals with your client.**

- i. **Take reasonable and necessary steps to locate and communicate with absent or incarcerated clients.**

2) **Expertise and Knowledge:**

- a. **Acquire and maintain a current working knowledge of all relevant state laws and regulations.**

Commentary: Attorneys should be thoroughly familiar with the Pennsylvania Juvenile Act, the Pennsylvania Child Protective Services Law, the Pennsylvania Rules of Juvenile Court Procedure, the Pennsylvania Adoption Act, and the regulations for the Administration of County Children and Youth Social Service Programs found in the Pennsylvania Administrative Code (55 Pa. Code 3130). The attorney must also be familiar with other potentially applicable state law that provides protection to a client's rights concerning, but not limited to their privacy, ethnicity, race, religion, gender, health, education, socio-economic condition, etc. to know when such law is relevant to a case.

- b. **Acquire and maintain a current working knowledge of local county rules and policies.**

Commentary: Attorneys should be familiar with all local court rules, administrative orders, policies, and protocols.

- c. **Acquire and maintain a current working knowledge of all relevant federal laws and regulations.**

Commentary: Attorneys should be familiar with all federal law regarding child abuse and neglect. Attorneys should also be familiar with other potentially applicable federal law that provides protection to a client's rights concerning, but not limited to their privacy, ethnicity, race, religion, gender, health, education, socio-economic condition, etc. to know when such law is relevant to a case.

Examples of relevant laws include but are not limited to:

- Titles IV-B and IV-E of the Social Security Act, including the Adoption and Safe Families Act (ASFA), 42 U.S.C. §§ 620-679 and the ASFA Regulations, 45 C.F.R. Parts 1355, 1356, 1357
- Child Abuse Prevention Treatment Act (CAPTA), P.L. 108-36
- Indian Child Welfare Act (ICWA) 25 U.S.C. §§ 1901-1963, the ICWA Regulations, 25 C.F.R. Part 23, and the Guidelines for State Courts: Indian Child Custody Proceedings, 44 Fed. Reg. 67, 584 (Nov. 26, 1079)
- Multi-Ethnic Placement Act (MEPA), as amended by the Inter-Ethnic Adoption Provisions of 1996 (MEPA-IEP) 42 U.S.C. § 622 (b)(9) (1998), 42 U.S.C. § 671(a)(18) (1998), 42 U.S.C. § 1996b (1998)
- Interstate Compact on Placement of Children (ICPC)
- Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)
- McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq. (1989)

- Foster Care Independence Act of 1999 (FCIA), P.L. 106-169
- Individuals with Disabilities Education Act (IDEA), P.L. 91-230
- Family Education Rights Privacy Act (FERPA), 20 U.S.C. § 1232g
- Health Insurance Portability and Accountability Act of 1996 (HIPPA), P.L., 104-192 § 264, 42 U.S.C. § 1320d-2 (in relevant part)
- Public Health Act, 42 U.S.C. Sec. 290dd-2 and 42 C.F.R. Part 2
- Immigration laws relating to child welfare and child custody

**d. Acquire and maintain a current working knowledge of the evaluation, diagnosis and treatment options, as well as the theories underlying the same for behaviors that may create risk which are common to many dependency cases.**

Commentary: Attorneys should understand the reports (expert or otherwise) generated after a party submits to an evaluation/assessment to effectively cross-examine witnesses and provide rebuttal testimony. These evaluations and reports may include, but are not limited to, drug and alcohol use, domestic violence, mental health disorders, cognitive disorders, developmental disorders, parenting capacity, and bonding, etc.

**e. Acquire and maintain a current working knowledge of available services and resources that address risk creating behaviors or environments.**

Commentary: Attorneys should be familiar with resources that families in the child welfare system often require, including hotlines and resource guides maintained by CYS and other entities that can direct those in need to programs that provide assistance with housing problems, drug and alcohol treatment, mental health treatment, domestic violence treatment, truancy and other school problems, medical needs and to service providers who are culturally competent, such as those that are LGBTQ-friendly.

**3) Case Preparation:**

- a. Review all pleadings and file objections, answers, and motions as needed.**
- b. Speak with the client before each hearing, in time to use client information for case investigation and preparation.**
- c. Conduct a thorough and independent investigation at every stage of the proceeding.**

Commentary: Attorneys should conduct a thorough and independent investigation including acquiring and using formal discovery when needed, and reviewing relevant records. Relevant records in dependency matters may include but are not limited to, the county agency file, court records, criminal histories, medical records, mental health records, placement provider reports police reports and school records. It also includes speaking with others involved with the child and family to gather relevant information including but not limited to, the county agency caseworker, relatives, foster parents, placement provider staff, school personnel, mental health providers, medical providers, and other providers such as in-home service providers.

**d. Develop a case theory and litigation strategy.**

- e. **Identify and prepare all witnesses including the client, using subpoenas when necessary.**
- f. **Identify, secure and prepare expert witnesses when needed.**
- g. **Identify and prepare exhibits or other evidence.**

#### **4) Collateral Contacts and Collaboration:**

- a. **Maintain regular communication with all counsel of record.**

Commentary: Attorneys should maintain contact with all counsel in the case to identify issues in dispute, determine factual stipulations, explore settlements/agreements about adjudicatory and dispositional matters, and to exchange witness lists, documentary evidence, exhibits, etc.

- b. **Maintain regular communication with counsel representing clients on other matters.**

Commentary: Attorneys should communicate with all other counsel representing the client in any matters which may include criminal, delinquency, protection from abuse, private custody, support, immigration, welfare, etc. The attorney shall work collaboratively with other counsel to ensure that while advocating the client's position it is done in a way that does not undermine the client's position in any other cases.

- c. **Maintain regular communication with court appointed representatives.**

Commentary: Attorneys should communicate with appointed GALs and CASA volunteers as they may have relevant information, documents, and other evidence which may support the client's wishes and/or the best interest of the child. Attorneys should collaborate with the court-appointed representatives to try and reach agreement about appropriate services and providers for the same.

- d. **Maintain regular communication with the Children and Youth and agency caseworkers.**

Commentary: Attorneys should regularly communicate with the CYS caseworker to obtain updates about the client's progress and to ensure court-ordered referrals are made, services are provided, and any other case related matters are addressed. Attorneys should collaborate with the CYS caseworker to try and reach agreement about appropriate goals, determine appropriate measures for assessing progress and determine appropriate services and providers. Attorneys should attempt to work with the CYS caseworker to overcome any barriers to obtaining appropriate services.

**e. Maintain regular communication with potential witnesses.**

Commentary: Attorneys should investigate potential witnesses. Potential witnesses are identified through interviews with clients, relatives, neighbors, clergy, caseworkers, court-appointed personnel, law enforcement personnel, service providers, medical providers, mental health providers, school personnel and any other professionals who work with the family. Attorneys should obtain updates from service providers/treatment providers about the client's compliance and progress with all service plans/treatment plans. Attorneys should also obtain updates about how successfully the client utilizes appropriate community resources.

**5) Advocacy:**

*Out of Court*

- a. Attend and advocate at meetings held out of court which are important and relevant to the client's case including, but not limited to, Family Service Plan, Individual Service Plan, Permanency planning, Aftercare, Transition planning and Family Group Conferencing type meetings.**

Commentary: Attorneys should advocate for the client both in court and out of court, which includes engaging in case planning and attending major case meetings. Attorneys should also communicate with clients in advance of meetings to prepare and to provide clients a thorough explanation of the relevance of the meeting in the progression of the case; secure attendance of necessary participants and obtain necessary documents in advance. [Note: This comment will be edited to further define out of court meetings and case planning, including requirements for lawyers for children relating to education of child clients.]

- b. Work with other parties to reach stipulations and joint recommendations for placement, services, visitation, etc. in support of client goals.**

- c. Monitor and ensure the implementation of court orders.**

Commentary: Attorneys should contact CYS and other service providers using a collaborative approach soon after hearings to monitor and ensure timely implementation of court orders and family service plans. When barriers and obstacles occur, attorneys should make efforts to identify and implement strategies to mitigate them. When necessary, attorneys should file motions to ensure compliance with court orders.

*In court:*

- d. Identify legal or evidentiary issues which require advance ruling by the court.**

Commentary: Where possible, attorneys should make efforts to reach stipulations as to legal or evidentiary issues.

**e. Advocate in court to further your client's goals, present evidence, including witnesses and exhibits.**

**f. Cross-examine other parties' witnesses.**

Commentary: Attorneys should cross examine other parties and witnesses when appropriate. Thus, as referenced in the section on case preparation, attorneys should engage in necessary communication and preparation to enable meaningful trial strategy decision-making and cross-examination. This preparation includes, but is not limited to speaking with clients about their knowledge of witnesses and anticipated testimony and obtaining and reviewing records, reports or statements of other parties' witnesses.

**g. Prepare and file appropriate motions regarding evaluations, services, placement, visitation, compelling compliance, etc.**

Commentary: When necessary, attorneys should file motions with specific averments in support of requested relief, including identification of providers and individuals involved in proposed services and placement, provide affidavits and necessary records where relevant, and obtain stipulations of opposing party whenever possible.

**h. File objections and motions for reconsideration if appropriate.**

## **6) Appellate:**

**a. Review and explain all court orders with the client, discuss and explain all available options, including appeals, for further review of rulings that are contrary to the client's position.**

Commentary: When discussing the possibility of an appeal, attorneys should promptly explain the timeliness obligations in filing an appeal, how the appellate practice works, including distinctions between presentation of the case at trial and on appeal, the scope and standard of review, which orders are reviewable, the possibility of stays, the continuing jurisdiction of the trial court, the likelihood of prevailing on appeal, and the potential negative impact, if any, on the parent and child, of taking an appeal.

**b. If the client decides to appeal, timely file all necessary post-hearing motions and documents adhering to the Pennsylvania Rules of Appellate Practice.**

Commentary: Attorneys should carefully review his or her obligations under the Pennsylvania Rules of Appellate Practice to ensure compliance with the various requirements of appellate practice and a Children's Fast Track Appeal.

**c. Communicate the status and results of the appeal.**

Commentary: Attorneys should as soon as possible communicate the result of the appeal and provide a copy of the appellate decision to the client. The attorney should also explain the



implications of the appellate decision whether it is to affirm, reverse or remand including the process necessary to effectuate the appellate court's decision.

**7) Ethical Considerations:**

- a. Abide by the Rules of Professional Conduct and be aware of special ethical issues that arise in dependency matters.**

Commentary: Attorneys should take special care in anticipating and managing common ethical issues that arise in dependency matters. For example, attorneys should avoid potential conflicts of interest that would interfere with the competent representation of the client, which may include refraining from representing both parents in a dependency matter, two parties in the matter, another party in a different matter, and representing a party where also representing an agency involved in the case. Similarly, with regard to communication, parents and children are represented parties in dependency matters and lawyers should take care in communicating directly with a parent or child without their lawyer's presence or explicit permission. [Note: The commentary for this section as it relates to the above and to loyalty, confidentiality and other duties will be further expanded and will reflect any differences and nuances in ethical duties of lawyers for parents in the dependency context and lawyers for children.]

DRAFT

**APPENDIX C. Time Study Chart for Representation of Children and Youth  
LEGAL REPRESENTATION WORKGROUP -- DISCUSSION DRAFT May 2013**

ED NOTE: The Legal Representation Workgroup (LRWG) has developed the preliminary structure of two detailed Time Study Charts to summarize the quantum of time that an attorney might reasonably invest in cases involving the representation of a child or a parent. The Time Charts itemize the distinct duties of child and parent lawyers and then assign time values to each task (i.e., “x” minutes per hearing @ “y” hearings per year; “x” minutes per Family Service Plan meeting, case preparation, etc.), with some differentiation for complexity of case and other factors.

We recommend that future work include the refinement of the Time Charts to adequately reflect the complexities and variations of dependency practice. As presented the Time Charts do not include time values. The LRWG proposes to complete this process in 2013-14, with tasks that include consulting with additional practitioners to improve upon the usefulness of the chart, further refining the list of duties, determining whether and how to factor in the number of children involved in a family and its impact on the time spent per case, and most importantly, discussing and reaching consensus about the time values for duties, to ensure we accurately capture the time that average and special cases entail. The Charts need to reflect the content of practice, as defined by law, codes of ethics, the Practice Standards and contracts of performance that the bench and bar may establish.

<u>DUTY</u>	<u>SOURCE</u>	<u>SPECIFIC TASKS</u>	<u>TIME REQUIREMENTS</u>	<i>Intake Thru 12 months</i>	<i>Year 2 &amp; per year to Case discharge</i>	<i>If TPR: Add</i>
<b>CLIENT CONTACT AND COMMUNICATION</b>						
Meet with minor client as soon as possible after appointment and on a regular basis thereafter.	42 PaCSA § 6311(B)(1), (8); Pa.R.J.C.P. Rule 1154(1), (8); ABA Model Act § 7(b)(5) and (8)	Have a significant initial client meeting. Meet with client outside of court at least once every six months thereafter, with a visit to the minor client in their placement at least once a year. Explain role as the client’s legal representative and expectations. Explain in a developmentally appropriate manner the child welfare process, allegations, what will happen in court etc. Establish a system that promotes regular contact, provide the client with contact information, be appropriately responsive and communicate regularly.	Average time for initial visit:			
			Average time for subsequent visits: (minimum 2 visits per year at [x] time per visit)			
			Average travel time for visits: ([#] of visits at [x] time traveling per visit)			
			Average time to document visits:			
			Average time on calls/emails in addition to visits (i.e., [#] calls at [x] minutes):			
<b>CASE PREP: RECORDS REVIEW</b>						
Request and review CYS file.	42 PaCSA §6311(B)(2);	Request and Review CYS file and copy relevant portions of files.	Average time to review CYS file:			
Request and review other relevant records, for example, reports relating to parents or other custodian of client.	Rule 1154(2) ; ABA Model Act § 7(b)(1) and (7)	Request and Review reports of examinations of parents or other custodian of the child (including drug and alcohol reports, psychological reports, interactional evaluations).	Average time to request and review parent related records:			
Request and review client’s records/reports.		Request and review client’s medical, psychological and school records for each hearing.  Obtain consent or court orders for release of records and send to records holders.	Average time to request and review client related records:			
			Average time to obtain/provide consents or court orders:			
			Average travel time to access records:			

**APPENDIX C. Time Study Chart for Representation of Children and Youth  
LEGAL REPRESENTATION WORKGROUP -- DISCUSSION DRAFT May 2013**

<b>DUTY</b>	<b>SOURCE</b>	<b>SPECIFIC TASKS</b>	<b>TIME REQUIREMENTS</b>	<i>Intake Thru 12 months</i>	<i>Year 2 &amp; per year to Case discharge</i>	<i>If TPR: Add</i>
<b>CASE PREP: INVESTIGATION, WITNESS &amp; EXHIBIT PREPARATION, ETC</b>						
<p>Conduct such further investigation necessary to ascertain the facts. Interview potential witnesses, including parents, caretakers and foster parents. Prepare witnesses and evidence.</p> <p>Take steps to ensure that client appears in court at least once every six months. File motions as needed</p>	<p>42 PaCSA § 6311(B)(4),(5); Rule 1154(4), (5); ABA Model Act § 7(b)(1) and (7)</p>	<p>Contact and interview potential lay witnesses and expert witnesses for example: therapist, teachers or daycare providers, service providers, foster parents or group home, etc. Prepare witnesses to testify. Subpoena witnesses. Gather and prepare documentary evidence.</p> <p>Make contact with client and client's foster parents and/or service providers to arrange and/or coordinate youth's appearance. Draft and file motions as needed</p>	Contact and interview witnesses:			
			Prep witnesses for hearing:			
			Average time to subpoena witness:			
			Gather and prepare documentary evidence:			
			Average time to arrange youth's appearance			
			Average time to prepare and file motions, objections:			
<b>ADVOCACY: HEARINGS</b>						
<p>Participate in all court and administrative hearings and reviews.</p> <p>Including Pre-hearing conferences and hearings on motions to change placement and other motions.</p> <p>Advise the court of the child's wishes and present whatever evidence exists to support the child's wishes.</p>	<p>42 PaCSA § 6311(B)(3),(7),(9); Rule 1154(3),(7),(9); ABA Model Act § 7(b)(7, 9, 10)</p>	<p>Attend and advocate at all hearings. Advocate to the court on key issues, for example : removal, adjudication, visitation, permanency, placement, and services, etc.</p> <p>Prepare for and advocate at pre-hearing conferences</p> <p>Identify legal or evidentiary issues which require advance ruling by the court. Where possible, reach stipulations as to legal or evidentiary issues. File motions, objections, including for reconsideration if appropriate.</p>	Average time for Adjudicatory hearing:			
			Average time for Permanency hearings: ([x] permanency hearings per year);			
			Pre-hearing conferences: (Average time per pre-hearing/pre-trial conference: _____; ([x] number of pre-hearing conferences)			
<p>Make specific recommendations relating to the safety and appropriateness of the child's placement and services necessary to address the child's needs and safety.</p>		<p>Make specific recommendations relating to the safety and appropriateness of the child's placement and services necessary to address the child's needs and safety. Make specific recommendations regarding: appropriateness/ stability of educational placement, If needed, appointment of education decision-maker, service plan to meet client's health care and disability needs.</p>	Hearings on motions:			
			Average travel time to court:			
			Average time to prepare notes for file:			
<b>ADVOCACY: OUT OF COURT</b>						

**APPENDIX C. Time Study Chart for Representation of Children and Youth  
LEGAL REPRESENTATION WORKGROUP -- DISCUSSION DRAFT May 2013**

<b>DUTY</b>	<b>SOURCE</b>	<b>SPECIFIC TASKS</b>	<b>TIME REQUIREMENTS</b>	<i>Intake Thru 12 months</i>	<i>Year 2 &amp; per year to Case discharge</i>	<i>If TPR: Add</i>
<p>Attend and advocate at meetings such as Family Service Plan, IL planning for client 16 years of age and older, Treatment Team, Aftercare, transition planning meetings, Family Group Conferencing. Attend meetings, conference calls and other calls at group home, foster care agency, residential treatment facility, service providers.</p> <p>Maintain collateral contacts, communicate and collaborate where possible with other counsel, parties, providers, etc.</p>		Attend and advocate at meetings such as FSP, ISP, Permanency plan, IEP, Transition Planning, Treatment Team, Interagency, School-related, Aftercare, Family Group Conferencing, etc. If needed, apprise clients promptly of the scheduling of any of these significant meetings. Provide a thorough explanation of the relevance of the meeting in the progression of the case; secure attendance of necessary participants; Meet with clients and obtain necessary documents in advance.	Average time FSP meetings per year ([#] meetings at x minutes per meeting):			
		Maintain communication with other counsel, caseworkers; Work with other parties to reach stipulations and joint recommendations for placement, Follow up with CYS and providers to ensure court orders are implemented;	Other case meetings per year ([#] of other case meetings at x minutes per meeting):			
			Average travel time for meetings ([x] minutes per meeting):			
		Provide collateral information to providers for purposes of evaluation and	Average time to prepare notes for file:			
			Average time for communication with collateral contacts:			

<b>LEGAL RESEARCH AND WRITING</b>						
Develop and maintain expertise and knowledge	ABA Model Act § 7(b)(1)	Engage in training and continuing education specific to child welfare representation.	Hours of training per year specific to child welfare representation = ____			
Case specific research and writing		Research law and/or placement or service options	Case specific research			

**TOTALS:**

**TOTAL for average case that ends in discharge without TPR**

**TOTAL for average case that includes TPR**

**TOTAL for average case that also includes appeals**

**2013 Report of the Legal Representation Workgroup  
on Standards of Practice, Caseload and Compensation for Lawyers in Dependency  
Cases in Pennsylvania**

**APPENDIX D  
Resources and Links**

For models of practice/performance standards, see:

- Arkansas:  
<https://courts.arkansas.gov/rules-and-administrative-orders/administrative-orders>
- Connecticut: “Connecticut Standards of Practice for Lawyers Representing Parents in Child Protection Cases,” Adopted by the Connecticut Commission on Child Protection on November 16, 2006, pursuant to Connecticut General Statute § 46b-123c(3)m. [http://www.ct.gov/ccpa/lib/ccpa/Final\\_Standards\\_Parents\\_12-29-06.doc](http://www.ct.gov/ccpa/lib/ccpa/Final_Standards_Parents_12-29-06.doc)
- Florida: “Guardian Ad Litem Revised Program Attorney Standards of Practice,” September 2010.
- Iowa: “Iowa Standards of Practice for Attorneys Representing Parents in Juvenile Court”.
- Massachusetts: “Performance Standards Governing the Representation of Children and Parents in Child Welfare Cases”. [http://www.publiccounsel.net/Private\\_Counsel\\_Manual/private\\_counsel\\_manual\\_pdf/chapters/chapter\\_4\\_sections/civil/trial\\_panel\\_standards.pdf](http://www.publiccounsel.net/Private_Counsel_Manual/private_counsel_manual_pdf/chapters/chapter_4_sections/civil/trial_panel_standards.pdf)
- Louisiana: “Louisiana Public Defender Board Trial Court Performance Standards for Attorneys Representing Parents in Child in Need of Care and Termination of Parental Rights Cases, Spring 2011.” <http://lpdb.la.gov/Supporting%20Practitioners/Standards/txtfiles/pdfs/2011%20CINC%20Standards.pdf>
- Maine: “State Of Maine Supreme Judicial Court Standards of Practice for Guardians Ad Litem in Maine Courts,” August 2004. [http://www.courts.state.me.us/maine\\_courts/family/gal/standards.html](http://www.courts.state.me.us/maine_courts/family/gal/standards.html)  
And

“Representing Parents in Child Protection Cases: A Basic Handbook for Lawyers,” July

2003. [http://www.courts.state.me.us/maine\\_courts/family/handbook\\_lawyers.html](http://www.courts.state.me.us/maine_courts/family/handbook_lawyers.html)

- Massachusetts: Committee for Public Counsel Services, “Performance Standards Governing the Representation of Children and Parents in Child Welfare Cases”, [http://www.publiccounsel.net/Practice\\_Areas/cafl\\_pages/performance\\_standards\\_for\\_cafl\\_attorney.html](http://www.publiccounsel.net/Practice_Areas/cafl_pages/performance_standards_for_cafl_attorney.html)
- New York: “The New York State Bar Association Committee on Children and the Law: Law Guardian Representation Standards, Volume II, Custody Cases,” November 1999. [cite]
- Virginia: “Standards To Govern The Performance of Guardians Ad Litem for Children,” [http://www.courts.state.va.us/courtadmin/aoc/cip/programs/gal/children/gal\\_performance\\_standards\\_children.pdf](http://www.courts.state.va.us/courtadmin/aoc/cip/programs/gal/children/gal_performance_standards_children.pdf)
- Wyoming: <http://gal.state.wy.us/index.php?page=about-us>

For models of GAL and parent attorney appointments, see:

- Arkansas: Attorney Ad Litem Program. [https://courts.arkansas.gov/adlitem/public/aal\\_description.cfm](https://courts.arkansas.gov/adlitem/public/aal_description.cfm)
- Iowa: Proposed Iowa Rule of Juvenile Procedure 8.36, “Qualification To Represent Parents in Juvenile Court” (includes enforcement). [standards pending final review by Iowa Supreme Court]
- Virginia: “Standards to Govern the Appointment of Guardians Ad Litem Pursuant to § 16.1-266, Code of Virginia”, [http://www.courts.state.va.us/courtadmin/aoc/cip/programs/gal/children/gal\\_standards\\_children.pdf](http://www.courts.state.va.us/courtadmin/aoc/cip/programs/gal/children/gal_standards_children.pdf)
- Wyoming: Guardians ad Litem “Formal Complaint Policy and Procedure”. <http://gal.state.wy.us/index.php?page=complaint-procedure> .

For models of compensation and caseload size:

- Arkansas: Supreme Court of Arkansas,

<https://courts.arkansas.gov/rules-and-administrative-orders/administrative-orders> .

- Wyoming: Wyoming GALs Standards, <http://gal.state.wy.us/index.php?page=home>.

For other resource material:

- ABA Model Act for the Representation of Children in Abuse and Neglect Proceedings, August 2010. [CITE]
- ABA Directory of Children’s Law Programs: compilation of children’s law programs across the country. <http://www.abanet.org/litigation/committees/childrights/directory.html>
- ABA Practice Standards. The ABA has developed Standards of Practice for attorneys representing children, parents and agencies. Many states include in the contract for services a provision that attorneys will adhere to the Standards.
  - Child Attorney Standards:  
<http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/repstandwhole.authcheckdam.pdf>
  - Parent Attorney Standards: <http://apps.americanbar.org/child/clp/ParentStds.pdf> and [http://www.americanbar.org/groups/child\\_law/what\\_we\\_do/projects/parentrepresentation/written\\_materials.html#StandardsofPractice](http://www.americanbar.org/groups/child_law/what_we_do/projects/parentrepresentation/written_materials.html#StandardsofPractice)
  - Agency Attorney Standards: --  
[http://www.americanbar.org/content/dam/aba/publications/center\\_on\\_children\\_and\\_the\\_law/resourcecenter/agency\\_standards.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/resourcecenter/agency_standards.authcheckdam.pdf)
- Child Welfare Information Gateway: State Statutes publication, “Representation of Children in Child Abuse and Neglect Proceedings,” examines state requirements for appointing guardians ad litem or attorneys to represent the best interests of children who are involved in child abuse and neglect proceedings, as well as the qualifications, training, and duties of these individuals.  
[www.childwelfare.gov/systemwide/laws\\_policies/statutes/represent.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/represent.cfm)
- Quality Improvement Center on Child Representation: summary of state laws governing child representation; in-depth review of how those laws are applied in practice, academic articles on the topic; and evaluations of child representation. [www.ImproveChildRep.org](http://www.ImproveChildRep.org)

- Pennsylvania: Johnston-Walsh et al., “Assessing the Quality of Child Advocacy in Dependency Proceedings in Pennsylvania,” June 2010. [http://www.jlc.org/sites/default/files/publication\\_pdfs/Assessing\\_Quality\\_of\\_Child\\_Advocacy.pdf](http://www.jlc.org/sites/default/files/publication_pdfs/Assessing_Quality_of_Child_Advocacy.pdf)
- Virginia -- certification of CLE training hours: <http://www.courts.state.va.us/courtadmin/aoc/cip/programs/gal/children/home.html>