

Standards of Practice

for Parents' Lawyers, Guardians Ad Litem
& Legal Counsel practicing Child Welfare
Dependency Cases in Pennsylvania



The Legal Representation Workgroup (LRWG) was charged with drafting recommendations for specific Standards of Practice for Attorneys representing children and parents in dependency proceedings.

The Legal Representation Workgroup (LRWG) presents a combined set of Standards applicable to all dependency Attorneys. Several of the individual Standards will specifically apply to GALs or to all Attorneys representing children.

Other differences in practice are accounted for in the commentaries.

Contents page

<u>Introductions</u>	5
<u>Section 1</u>	
Client Contact.....	7
<u>Section 2</u>	
Expertise and Knowledge.....	16
<u>Section 3</u>	
Case Preparation.....	18
<u>Section 4</u>	
Collateral Contact and Collaboration.....	22
<u>Section 5</u>	
Advocacy.....	24
<u>Section 6</u>	
Appellate Advocacy.....	28
<u>Section 7</u>	
Ethical Considerations.....	29
<u>Time Charts</u>	35

In 2011, Pennsylvania State Roundtable's Legal Representation Workgroup (LRWG) began to develop a set of practice standards for attorneys representing children and parents in the dependency system. To achieve the goals set forth in the Mission and Guiding Principles: protect Children, Promote Strong Families, Promote Child Well-Being and Provide Timely Permanency, any acceptable system for appointing child and parent attorneys must assure the following provisions:

- High-quality legal practice,
- Professional training,
- Reasonable caseloads and compensation that allows and encourages high quality practice, and
- Supervision and accountability

The Workgroup utilized a variety of resources, including Pennsylvania's Mission and Guiding Principles and Benchbook, state and national research and a review of various sources of academic and professional guidance in developing the practice standards. Focus groups were also held across the state. Participants included Attorneys from different jurisdictions representing various delivery methods of legal services including large agency, sole provider and contractual arrangements. In addition, youth and parents who have been represented by attorneys in dependency court were included as a focus group.

The standards set forth herein detail the various ways that attorneys, judges and the system can positively influence performance and accountability. While some of the standards are easily embedded into representation regardless of the number of clients an attorney represents (i.e. an attorney should explain their role and scope of representation), caseload size may impact the ability to fully meet other standards requiring additional time of the attorney (i.e. an attorney should have regular contact with the child). To assist in the analysis of caseload size, Time Charts have been included in the back of this booklet.

This booklet presents a combined set of Standards applicable to all dependency Attorneys. Several of the individual Standards will specifically apply to Guardians ad Litem or to all Attorneys representing children. Other differences in practice are accounted for in the commentaries. These Standards provide for solutions necessary to influence Attorney performance and accountability, and sets forth a path for legal advocacy in dependency.

Standards of Practice for Parents' Attorneys, Guardians Ad Litem & Legal Counsel for Children in Child Welfare Dependency Cases in Pennsylvania

The Legal Representation Work Group (LRWG) was charged with drafting recommendations for specific Standards of Practice for Attorneys representing children and parents in dependency proceedings. The Legal Representation Work Group (LRWG) presents a combined set of Standards applicable to all dependency Attorneys. Several of the individual Standards will specifically apply to GALs or to all Attorneys representing children. Other differences in practice are accounted for in the commentaries.

Practice Standards with Commentary

1) Client Contact:

Prior to Initial Contact

1a. Determine role as GAL or legal counsel for child in accordance with the 42 Pa. C.S.A. 6311 and 6337 and with the Supreme Court Rules of Juvenile Procedure.

Commentary:

Pursuant to Pa.R.J.C.P. 1151 and 42 Pa. C.S. §§ 6311 and 6337, a Attorney representing a child functions either as GAL or legal counsel, depending on the grounds for dependency alleged. These practice standards and accompanying commentary identify and provide guidance on both the similarities and unique aspects of the two roles. At the beginning of the appointment, prior to contact with the child, the Attorney must identify the basis of the appointment after reviewing the applicable documents and information (e.g., dependency petition, order of appointment, shelter care application). The Attorney should ascertain the facts of the case, and contact the caseworker and others to get a picture of the case before meeting with the child, even for a shelter hearing.

1b. Understand your role as a Parent Attorney

Commentary:

It is a serious matter when the state intervenes in the life of a family and decisions are made that may lead to the temporary or permanent severing of the parent-child relationship. The law recognizes the fundamental liberty interests implicated in child welfare proceedings and requires that due process be provided. The Juvenile Act also provides parents with the statutory right to representation in all proceedings under the Act. The role of the parent Attorney is critical to ensuring parents' due process rights are protected and that any disruption to their families is subject to critical review.

Parent Attorneys ensure that due process is provided to parents and that parents are provided with meaningful reasonable efforts to enable them to prevent removal or meet

Combined Standards of Practice for Parent and Child Attorneys
April 2014

their reunification goals in a timely manner. Parent Attorneys ensure the critical voice and information of the child's parent is present in all matters concerning their child to ensure the shortest family separation possible.

The duty of loyalty and confidentiality is indispensable to being effective in gathering needed information, counseling and zealous representation of parents. Parent Attorneys serve as a knowledgeable guide on navigating the child welfare system, a legal counselor as well as an advocate at hearings and in meetings.

Initial Contact

1c. Establish and maintain a working relationship with the client.

Commentary:

Attorneys should explore the client's situation, interests, preferences, and wishes to build trust, confidence and effectiveness in the relationship with the client.

GAL Commentary: *Effective representation of a child requires GALs and legal counsel for children to thoughtfully approach and engage the child. Building rapport often requires more than just discussing the case in language appropriate to the child's age and stage of development but also how to physically position oneself when meeting a child client such as sitting on the floor to draw or play while rapport building with younger clients. When representing multiple children in a family, it is essential to meet with each client individually and establish a separate relationship with each child appropriate to that child's age and developmental stage. GALs and legal counsel for children should be sensitive to the fact that some children will know the reason the case has come to court and others will not.*

Parent Attorney Commentary:

Establishing a working Attorney-client relationship with a parent in the child welfare system may be complicated by many factors, such as poverty, inadequate housing, and history of trauma among other issues. In dependency cases, parents are in jeopardy of temporarily or permanently losing custody of their children. Parent Attorneys have an important role in helping families stabilize, remain intact or reunite where possible. Given what is at stake, the parent may initially be angry and defensive with everyone, including their Attorney. Therefore gaining the clients' confidence by meeting with them, listening to them and understanding their concerns are key to a functional working relationship.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

1d. Explain your role as the client's legal representative. GALs should explain the limitations on confidentiality that are inherent in their role.

Commentary:

Attorneys should explain their role and the scope of their representation. Attorneys should explain 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. It is helpful for the Attorney to explain that they are available for consultation, and want to communicate regularly.

GAL Commentary:

At the first client contact and on an ongoing basis, GALs should discuss their role and explain that they will communicate the client's wishes in all forums but may recommend something other than what the client desires in the course of the GAL advocating for appropriate placement and services to meet the client's best interests. GALs should explain, at the first client contact, that they cannot promise that all information they receive about the case will remain confidential because of the GAL's role to advocate for appropriate placement and services to meet the client's best interests. This commentary applies to clients who are able to comprehend the discussion of these issues. Clients who were unable to comprehend these issues at the outset of the case but whose cases are ongoing should receive this explanation if and when they later become capable of understanding these issues.

Counsel for Children and Parent Attorney Commentary:

At the first client contact, parent Attorneys and counsel for children should make clear to the client that the Attorney represents the client and has a duty of confidentiality and loyalty to the client, not to any other person in the case. The Attorney should explain any limitations on those duties pursuant to the Rules of Professional Conduct. Attorneys should explain their role as providing expertise, counsel and determining strategy, but that the client sets the goals that the Attorney will vigorously pursue in and out of court. The Attorney should explain how regular communication will help the Attorney gather updated information for the case, and learn of any difficulties the client is experiencing so that the Attorney might help the client address such problems early on. It's important to elaborate on the benefits of bringing issues to the Attorney's attention rather than letting problems persist as clients may not understand that Attorneys can provide counsel and take action as needed between hearings to help the client resolve case related problems. For example, if a client is having a problem obtaining a timely evaluation, treatment or visitation scheduled or if there is a problem with an agency following a court order, the Attorney can assist the client to resolve such issues.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

1e. Explain in a developmentally and language appropriate manner the initial allegations and what will happen in court.

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. Attorneys should use interpreters to communicate with their clients who have limited English Proficiency, are deaf or hearing impaired, or experiencing other impairments and communicate with the court, agency and service providers as needed to ensure the client is able to participate in their treatment, meetings and hearings.

The parent's Attorney should spend time with the client to prepare the case and address questions and concerns. The Attorney should clearly explain the allegations made against the parent, what is likely to happen before, during and after each hearing, and what steps the parent can take to increase the likelihood of the parent reaching his or her goals.

1f. GALs and legal counsel for children must assess the child's changing stages of cognition, development and language.

Commentary:

GALs and legal counsel for children should initially assess the child's developmental stage to explain the proceedings, obtain information from the child, discuss the case and ascertain the child's wishes in a developmentally appropriate manner. Recognizing that children's cognitive and language development typically increases over time, GALs and legal counsel for children must continue to assess the child's development throughout the course of representation. This will allow GALs and legal counsel for children to adjust their communication with the child to reflect the child's developmental growth as well as inform the need to request further assessment.

1g. 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. Attorneys should recognize that both child and adult clients may be coping with or experiencing trauma which may have an adverse impact on their functioning and

Combined Standards of Practice for Parent and Child Attorneys
April 2014

communication. Consequently, Attorneys should understand trauma and respond and practice in manner that is trauma informed.

Parent Attorney Commentary:

Parent Attorneys should be aware that parents with low incomes may have challenges such as lack of resources to pay for housing, transportation or utilities, that may have a significant impact on their ability to meet certain case goals without support. It is also important for the parent Attorney to be sensitive to the parent's literacy level and impairments in order to communicate in language and in a manner that is accessible.

Ongoing Communication

1h. Contact your client regularly and establish a system that promotes regular Attorney-client two-way communication

Commentary:

Attorneys for parents, counsel for children and GALs should contact their clients regularly and should establish a system that enables two-way communication between client and Attorney to be regular, timely, and adequate. 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 and where applicable, to engage and support client's active participation in the child welfare and legal process. Whatever system is established for ongoing two-way communication should take into account the practical limitations on a client's ability to contact the Attorney. Attorneys should ask their clients how they prefer to communicate and Attorneys should provide their clients with such contact information. Attorneys should at the very least provide clients with a working phone number with voicemail and a mailing address.

Because child clients cannot be expected to initiate or maintain contact with the Attorney who is representing them, GALs and legal counsel for children are responsible for regularly contacting the child.

1i. GALs and legal counsel for a child must have regular contact and develop a relationship with the primary caregiver, and communicate and visit accordingly.

Commentary:

The child's primary caregiver is an essential source of information on the child's needs, progress and well-being. Caregivers, in their own interactions with the child, can significantly

Combined Standards of Practice for Parent and Child Attorneys
April 2014

support or hinder the child's trust in and relationship with the GAL or legal counsel. Further, it is often through the caregiver that the GAL or legal counsel arranges access to the child. These considerations take on heightened importance when the child is a baby, toddler, nonverbal, or severely intellectually or developmentally compromised. Thus, GALs and legal counsel for children must regularly contact the child's primary caregiver and must take time to explain to the caregiver their role, their relationship to the caregiver, how they will handle information that comes from the caregiver, etc. Part of that explanation is informing the caregiver that you are the advocate for the child and not for the caregiver.

GALs and legal counsel for children must be especially mindful of ethical boundaries in their communications with the child's caregivers when the caregiver is a parent or an otherwise represented party.

- 1j. Meet with your client regularly. GALs and legal counsel for children must meet the child where the child resides.**

Commentary:

Attorneys must meet with their client as soon as possible following appointment and on a regular basis thereafter. Attorneys should explain in a 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. Attorneys must make themselves available for in-person meetings and telephone calls with clients to address the client's questions and concerns and to move the case forward. The Attorney and client should work together to identify and review short and long-term goals and resolve problems and barriers, particularly as circumstances change during the case.

GALs and legal counsel for a child must meet with the child as soon as possible following appointment and on a regular basis thereafter in a manner appropriate to the child's age and maturity. See Pa.R.J.C.P. 1154 and 42 Pa. C.S. § 6311. The GAL or legal counsel should meet periodically with the child in the child's living environment so that they can observe the child's current living situation as well as accommodate a client's age, development, physical or mental health in a more convenient, comfortable environment. Unlike adult clients, the GAL or legal counsel cannot expect, nor would it be in the child's best interests to require, that the child client to come to the office for a meeting. GALs and legal counsel for children may need to visit with their clients in out-of-home placements such as foster homes, group homes, independent living facilities, hospitals, juvenile detention centers or residential treatment facilities. In some instances, the client's placement may require travel that requires additional time.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

1k. Attorneys for parents and legal counsel for children must support and empower clients in directing the course of legal representation and in making informed decisions.

Commentary:

Attorneys for parents and legal counsel for children should explain all legal aspects of the case and provide comprehensive counsel on the advantages and disadvantages of different options, the expectations of the court and agency and consequences of decisions and actions. The Attorney provides expertise and counsel and makes strategic decisions about the best ways to achieve the client's goals while empowering the clients to make final decisions on desired case goals.

Parent Attorney commentary:

The parent has at least two distinct and meaningful areas of decision making, one is the decision-making necessary to direct their legal representation in the case as referenced above, and the second is to continue decision-making regarding their children's medical, educational and other needs while the child is in placement.

With regard to encouraging and protecting parent's right to make decisions about their child during the dependency case, Attorneys representing parents should counsel the client and help the parent understand his or her rights and responsibilities including what decision-making authority remains with the parent and what lies with the child welfare agency while the child is in foster care regarding the child's medical, mental health and educational decisions and services. The Attorney for a parent should be mindful that parents may distrust the child welfare system and feel disempowered by the child welfare proceedings. If necessary, the parent's Attorney should intervene with the child welfare agency, provider agencies, medical providers and the school to ensure the parent is informed and has meaningful decision-making opportunities. This may include seeking court orders when the parent has been left out of important decisions about the child's life. Continuing to exercise as much parental responsibility as possible is important to help parents understand and prepare to meet their child's evolving needs and to expedite family reunification

1l. GALs must regularly ascertain the child's wishes and factor that into the case strategy and the GAL's best interest recommendation.

Commentary:

It is critical that a GAL for a child identify and explore the child's wishes upon initially consulting with the child and on a regular basis thereafter. The child's position should be taken seriously and inform the best interest recommendation as well as the witnesses and evidence necessary to put forth the child's wishes, and what interim steps and decisions may occur in between hearings and throughout the duration of the case. The GAL must understand

Combined Standards of Practice for Parent and Child Attorneys
April 2014

that a child may, because of age, developmental or intellectual abilities, or other conditions, change his or her position much more frequently than an adult client in a child welfare case. Sometimes this is due to changes in circumstances or the availability of information. Other times this may be due to the child's ongoing development, maturation or therapeutic progress, as well as the child's ability to have a better understanding and appreciation of his or her situation, all of which gives rise to the need to ascertain the child's wishes frequently.

1m. Discuss any recommendations or proposals from the county agency or others with your client. The GAL must discuss any proposals or recommendations with the client in terms of both how it relates to the child's wishes and to the GAL's best interests recommendations.

Commentary:

The Attorney should discuss any recommendations, proposals and settlement offers from the agency or others with the client. Pa.R.P.C 1.4.

1n. Take reasonable and necessary steps to communicate with institutionalized, incarcerated or absent clients and arrange for such clients to meaningfully participate in court proceedings and other important case events.

Commentary:

Attorneys should be mindful that their obligations towards clients who are incarcerated, institutionalized, in placement or in treatment are the same as for clients who are not incarcerated, institutionalized, in placement or in treatment and that these clients have the same rights under the law. Thus, Attorneys should regularly communicate with their clients and in some situations, this will require visiting prisons and engaging in more extensive phone or mail contact than with other clients. The Attorney should be aware of the challenges associated with having confidential conversations with the client in such environments, and attempt to resolve that issue. The Attorney should also be aware of the reasons for the incarceration, estimated duration of incarceration, location of prison and consider what impact these factors have on the case. The Attorney should take actions to ensure that their client is able to participate in hearings and case meetings.

In situations where the Attorney is having trouble reaching a client, the Attorney should take steps to communicate with the client including checking to see if client is incarcerated, speaking with the client's family, the caseworker, the foster care provider and other service providers.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

GAL commentary:

The statutory and R.J.C.P. requirements that the GAL meet with the client as soon as possible after appointment and on a regular basis thereafter applies to incarcerated children. See Commentary to Standard 1.h and 1j, and see Pa.R.J.C.P. 1154 and 42 Pa. C.S. § 6311. While incarcerated children generally should attend each hearing, in the rare instance that a child will not attend in person, GALs and legal counsel should arrange for participation via videoconferencing or, as a last resort, by phone. GALs and legal counsel for children can utilize that same technology for an incarcerated child to participate in important meetings. The R.J.C.P 1129 requirement that dependent children attend court at least every six months applies equally to and makes no exception for incarcerated youth.

Parent Attorney commentary:

The parent's Attorney must be particularly diligent when representing an incarcerated parent. If a parent wants to be present in court, the Attorney should request a bring down order, order to produce or other documentation necessary for the client to be transported from the prison and where such is not possible, video or phone conferencing should be arranged. Parents' Attorneys must understand the implications of ASFA for an incarcerated parent who has difficulty visiting and planning for the child. Obtaining services such as substance abuse treatment, parenting skills, or job training while in jail or prison is often difficult. The parent's Attorney may need to advocate for reasonable efforts to be made for the client, and assist the parent and the agency caseworker in accessing services. The parent's Attorney should counsel the client on the importance of maintaining regular contact with the child while incarcerated. Parents' Attorneys should assist in developing a plan for communication and visitation by obtaining necessary court orders and working with the caseworker as well as the correctional facility's social worker.

The parent's Attorney should also communicate with the parent's criminal defense Attorney. There may be issues related to self-incrimination as well as concerns about delaying the abuse and neglect case or the criminal case.

Parent Attorneys should be mindful of their ethical considerations when representing an absent client. After a prolonged period without contact with the client, the parent's Attorney should consider withdrawing from representation.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

2) Expertise and Knowledge:

2a. Acquire and maintain a current working knowledge of all relevant state laws and regulations, case law and all local county rules and policies.

Commentary:

Attorneys should be thoroughly familiar with the Pennsylvania Juvenile Act, the Pennsylvania Child Protective Services Law, the regulations for Protective Services found in the Pennsylvania Administrative Code (55 Pa. Code 3490), the Pennsylvania Rules of Juvenile Court Procedure, the Pennsylvania Adoption Act, Act 55 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 privacy, ethnicity, race, religion, gender, health, education, socio-economic condition, immigrant status, etc. to know when such law is relevant to a case.

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

2b. 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 privacy, ethnicity, race, religion, gender, health, education, socio-economic condition, immigrant status, 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, 1979)*
- *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)*

Combined Standards of Practice for Parent and Child Attorneys
April 2014

- *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 (HIPAA), 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*

2c. 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 dependency cases.

Commentary:

Attorneys should understand the reports (expert or otherwise) generated after a party submits to an evaluation/assessment to effectively advocate for the client, conduct direct or cross-examination of 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.

GALs and legal counsel for children should have a working knowledge of behavioral, developmental and physical health conditions that may be likely for children whom they may represent, as well as the treatment options and programs appropriate for these conditions.

2d. 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 child welfare agencies 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.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

2e. Acquire and maintain a current working knowledge of children’s language and development.

Commentary:

Children grow and develop in physical, psychological and emotional stages which are both predictable and unique for every child. The stages of child development are important factors in determining the services and supports that a child may need, as well as influencing the ability to communicate and to learn. GALs, legal counsel for children and Attorneys representing parents should acquire and maintain knowledge regarding child development, including stages of psychological development, language skills and cognition.

2f. Acquire and maintain expertise regarding education issues and system if appointed as educational decision maker.

Commentary:

The role of educational decision maker is highly specialized. GALs who accept this role should have specialized knowledge and/or training beyond what is necessary to address the educational and medical issues arising in dependency cases. This additional expertise includes knowledge of:

- *Enrollment and mandatory attendance requirements*
- *Eligibility for special education and gifted services and the corresponding services under the Individuals with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, PA Code 16.1 and other applicable laws.*
- *School discipline, including protections for students with disabilities such as manifestation of disabilities.*
- *Transition plans and graduation requirements for older youth*
- *Mental health diagnoses, services, and treatment*
- *Medicaid, Private Insurance, and other insurance issues.*
- *Eligibility for social security benefits and services.*

3) Case Preparation:

3a. Review all pleadings and file objections, answers, and motions as needed.

Commentary:

The Attorney must file petitions, motions, discovery requests, and responses and answers to pleadings filed by other parties that are appropriate for the case. These pleadings must be thorough, accurate and timely.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

When a case presents a complicated or new legal issue, the Attorney should conduct the appropriate research. The Attorney must understand the relevant law, and be able to present it to the judge in a compelling and convincing way, including filing memoranda of law, when appropriate. The Attorney should be prepared to distinguish case law that appears to be unfavorable.

3b. *Speak with the client before each hearing, in time to use client information for case investigation and preparation.*

Commentary:

Child welfare cases are dynamic, where a child and parent's needs, concerns, progress, and many other important aspects of a case change throughout the case. Some of these developments will require the Attorney to take action, or conduct further investigation and prepare evidence to move the case forward. It is therefore important that Attorneys for all parties communicate with their own clients regularly, and especially before each hearing.

3c. *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.

3d. *The GAL must discuss with the child in advance of the hearing the position and best interests recommendation being made.*

Commentary:

Pursuant to Pa.R.J.C.P. 1154 and 42 Pa. C.S. § 6311, the GAL should 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. As discussed in section 1.1 of these Standards, the GAL should consider and take seriously the child's desired outcomes, as achieving them may serve the child's best interests.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

However, the GAL must also make recommendations to the court regarding placement and services that meet the child's best interest. When the GAL's best interest recommendations diverge from the child's wishes, the GAL should discuss this with the child in advance of the hearing. The GAL should explain to the child why the GAL's position is different than the child's wishes as well as what would need to happen in the future for the GAL's recommendation to be similar to the child's wishes (e.g., child's parent would need to enter and actively engage in drug treatment before GAL could recommend that the child return home). Whenever realistic, the GAL should discuss any interim steps that could happen to help achieve the client's wishes.

3e. Develop a case theory and litigation strategy.

Commentary:

Once the Attorney has completed the initial investigation and discovery, including interviews with the client, the Attorney should develop a strategy for representation. The strategy may change throughout the case, but the initial theory is important to assist the Attorney in staying focused on the client and what is achievable. The theory of the case should inform the Attorney's preparation for hearings and arguments to the court throughout the case. It should also help the Attorney decide what evidence to develop for hearings and the steps to take to move the case forward.

3f. Identify and prepare all witnesses, using subpoenas when necessary.

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.

The Attorney, in consultation with the client, should develop a witness list well before a hearing. The Attorney should not assume the agency will call a witness. The Attorney should, when possible, contact the potential witnesses to determine if they can provide helpful testimony and subpoena them if appropriate.

When appropriate, the Attorney should consider working with other parties who share the same position when creating a witness list, issuing subpoenas, and preparing witnesses. Doctors, nurses, teachers, therapists, and other potential witnesses have busy schedules and need advance warning about the date and time of the hearing. If the witness is not able to appear in

Combined Standards of Practice for Parent and Child Attorneys
April 2014

person on the date of the hearing, the Attorney should take the necessary steps to permit the witness to testify telephonically or on another date.

The Attorney should set aside time to fully prepare all witnesses in person before the hearing. The Attorney should remind the witnesses about the court date. Witnesses are often nervous about testifying in court. Attorneys should prepare them thoroughly so they feel comfortable with the process and questions.

3g. Prepare client to testify. GALs and legal counsel for children should prepare the child to participate, and respond to the court's inquiries regarding permanency planning.

Commentary:

Attorneys should prepare their clients for potential testimony by including an explanation of 1) the court process for taking testimony, 2) the reason for having the client testify, 3) the information to be elicited from the client, 4) the questions that will be asked to elicit the information, 5) what to do when someone objects, and 6) the need to be responsive to questions from other counsel and from the judge.

Attorneys should be attuned to the client's comfort level and ability to testify in court. Counsel should be careful to frame questions in a way that the client understands and is capable of responding to accurately.

GAL and legal counsel for children commentary:

GALs and legal counsel for children should explain that the child has the option to testify. Some children are ready and willing to speak in court. Other children are unwilling or afraid to do so for a variety of reasons, including being intimidated by the court process, being reluctant to speak in front of family members, etc. Those clients may still wish to communicate to the court and should be presented with the alternatives of writing down their thoughts to be shared with the judge, or testifying in camera. In addition, the court must consult with the child regarding the child's permanency plan in a manner appropriate to the child's age and maturity. 42 Pa. C.S. § 6351(e)(1). GALs and legal counsel for children should assist their clients in engaging directly with the court on this subject.

3h. Identify, secure and prepare expert witnesses when needed.

Commentary:

Often child welfare cases are complex and can require experts in different roles. Experts may be needed for ongoing case consultation and/or for providing testimony at trial.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

Attorneys should be prepared to both present their own expert witnesses and challenge other parties' expert witnesses as to their qualifications, scientific methodology, factual determinations, conclusions and recommendations.

When Attorneys determine expert testimony is necessary to the case, they should research and locate qualified experts, consult with them and seek necessary funds to retain them including motioning the court for the same. Attorneys should make efforts to speak with and obtain reports from all expert witnesses in advance of their testimony. The Attorney should subpoena the experts, giving them as much advanced notice of the court date as possible. As is true for all witnesses, the Attorney should spend as much time as possible preparing the expert witnesses for the hearing.

3i. Identify and prepare exhibits or other evidence.

Commentary:

Child welfare court hearings involve matters of great importance and Attorneys should be prepared for formal court hearings where evidence and exhibits are expected. One role Attorneys play is to bring evidence to support their case to the court's attention so that the judge has the information when rendering decisions. Each Attorney in the case has a duty to be proactive in identifying and preparing exhibits and evidence to further their case.

4) Collateral Contacts and Collaboration:

4a. Maintain regular communication with all counsel of record.

Commentary:

Attorneys should maintain contact with all other Attorneys 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.

4b. Maintain regular communication with counsel representing clients on other matters.

Commentary:

Attorneys should communicate with all other Attorneys 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 advocating the client's position is done in a way that does not undermine the client's position in any other cases.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

The child's interests may be served through proceedings not connected with the case in which the GAL or legal counsel for the child is participating. See ABA Child Standards D-12. Child clients may not be able to themselves acquire much-needed legal representation in matters related to education and special education, disability benefits, immigration, personal injury, health care, and others. GALs and legal counsel for children should assist clients in securing legal representation in other matters as appropriate.

Although adult clients are generally better able to seek legal representation on collateral matters, it is similarly important to help them identify and connect with other legal resources where needed to resolve the collateral matters impeding their ability to meet their case goals. For example, where the parent is facing eviction and may lose their housing, it would be helpful to connect with a Attorney or legal aid service that advises or represents low income people in landlord tenant matters.

4c. Maintain regular communication with the child welfare agency and other child welfare professionals in the case.

Commentary:

Attorneys should regularly communicate with the child welfare agency and other child welfare professionals in the case 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 child welfare professionals 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 them to overcome any barriers to obtaining appropriate services.

4d. Maintain regular contact with service providers and case participants.

Commentary:

Attorneys should understand the client's and family's progress with services, and know what suggestions service providers have about the ongoing need for and effectiveness of services. Determining this information requires communication with providers of family support, parenting, domestic violence, anger management, mental health, medical, and substance abuse treatment (in addition to foster and group home staff referenced in Standard 4.c). From this investigation, Attorneys should identify which service providers and case participants to call as witnesses in support of the case, or prepare to cross-examine service providers called by other Attorneys. Attorneys also may need to communicate the client's needs to the service providers and advocate for particular services. Attorneys similarly should communicate with case

Combined Standards of Practice for Parent and Child Attorneys
April 2014

participants who are not parties -- such as probation officers, CASA, and educational decision makers -- to determine those participants' recommendations and whether to have those individuals testify.

5) Advocacy:

5a. Advocate for client's stated direction and goals of the case.

Commentary:

Parents' Attorneys and legal counsel for children should advocate in court to further the client's goals, present evidence, including witnesses and exhibits. See Pa.R.P.C. 1.2. If client wishes to testify, call client as witness.

5b. The GAL must advocate in a manner consistent with presenting the child's wishes while also advocating for the GAL's position regarding best interests.

Commentary:

Under Pennsylvania law, the GAL is required to advocate for both what the child wants and what the child needs. The Juvenile Act and Juvenile Court Rules of Procedure require the GAL to "make any 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, including the child's educational, health care, and disability needs." The GAL must also "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" and "[w]hen appropriate because of the age or mental or emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court." 42 Pa.C.S.A. § 6311 and Pa.R.J.C.P. 1154.

Accordingly, GALs should present witnesses, testimony and evidence to support the GAL's best interest recommendation, as well as the witnesses, testimony and evidence necessary to support the child's wishes.

5.c. Advocate in and out of court on issues of visitation, to ensure that visitation among children and parents is a right, not a privilege.

Commentary:

Visitation is important to both children and parents, essential to preserving bonds, and to minimizing trauma of separation. Visitation is a strong predictor of successful reunification

Combined Standards of Practice for Parent and Child Attorneys
April 2014

outcomes. Attorneys for children and parents should all actively work to ensure frequent and appropriate visitation between parents and their children who are in out-of-home placement, as well as visitation among siblings. The frequency and duration of visits should respect the individualized needs of the children and their parents/guardians and the evidenced-based value of promoting reunification through maintaining family contact. The location and other conditions for visits should be creatively designed for privacy and interaction, should provide all avenues of positive connections to the family and community and should be only as restrictive as required to ensure a child's safety.

Out of Court Advocacy

- 5d. Attend and advocate at meetings held out of court which are important and relevant to the client's case including, but not limited to meetings related to placement, treatment, visitation, family services, permanency, transition planning, and educational or school 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.

- 5e. Work with other parties to reach stipulations and joint recommendations for placement, services, visitation, etc.***

Commentary:

Attorneys should advocate for the client both in and out of court, including working with all parties to design the best service plan for the family. The Attorney should talk to the client about the client's needs and willingness to engage in services. Services should be tailored to the needs of each client and address the dependency issues in the case.

Attorneys should know about the social, mental health, substance abuse treatment and other services available to parents, children and families in the county in which the Attorney practices so the Attorney can advocate effectively for the client to receive available services. When available services are insufficient for the family's needs, Attorneys should be prepared to advocate for appropriate services to be provided or created.

When possible, Attorneys should seek stipulations or joint recommendations with other parties for placement, services, visitation, etc. Attorneys should be aware that sometimes the services

Combined Standards of Practice for Parent and Child Attorneys
April 2014

or outcome sought will not be available or stipulated to, and the Attorney will need to advocate in and out of court for those services or outcomes.

5f. Monitor and ensure the implementation of court orders consistent with the Attorney's role.

Commentary:

Attorneys should contact the child welfare agency and other service providers using a collaborative approach soon after hearings to monitor and ensure timely implementation of court orders and family service/case plans as appropriate and consistent with their role. Attorneys should also communicate with the client soon after hearings and regularly thereafter to ensure the client is receiving the assistance she needs to follow the court order and case plan. 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 Advocacy:

5g. 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. Where appropriate, Attorneys should motion the court for advance rulings on issues related to jurisdiction, standing, procedural due process, discovery, and other evidentiary issues.

5h. Advocate in court, present evidence, including witnesses and exhibits. If client wishes to testify, call client as witness.

Commentary:

Attorneys should use the court hearing as an opportunity to advance the case. As is referenced in the court preparation standards in section 3, the Attorney must be fully aware of the client and case goals and be ready to present witnesses and exhibits to the court in furtherance of those goals. The client should know what the Attorney hopes to accomplish during the court hearing, and be prepared to testify as appropriate.

GALs must ensure that the court is provided with the necessary information for the court to determine what is in the best interest of the child. To accomplish this task, GALs must inform the court of the child's wishes and present whatever evidence exists to support those wishes,

Combined Standards of Practice for Parent and Child Attorneys
April 2014

including client testimony. If the GAL's best interest recommendation differs from the child's wishes, the GAL must present evidence to support those recommendations. GALs should discuss with the child in advance of the hearing if their best interest recommendation differs from the child's wishes. (See Standard 3.d.) The GAL should discuss with the client whether the client wishes to testify (See Standard 3.g), and if so call the client as a witness.

GALs and legal counsel for children should ensure that arrangements have been made for children to attend court hearings. It is important that children understand and be part of decisions being made about their lives. R.J.C.P 1129 requires that dependent children attend court at least every six months.

While children should attend hearings, GALs and legal counsel for children should consider whether in unusual circumstances a child should be excused for a portion of the hearing due to age, maturity, or a legal/factual issue such as a challenge to paternity, etc.

In the rare instance when a child is placed out of state and will not attend a hearing or important meeting in person, GALs and legal counsel should arrange for participation via videoconferencing or, as a last resort, by phone.

5i. 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.

5j. Prepare and file appropriate motions regarding evaluations, services, placement, visitation, compelling compliance, etc. File objections and motions for reconsideration if appropriate.

Commentary:

Attorneys should be involved in active motions practice to advance their clients' cases including being proactive in ensuring compliance with court orders and obtaining referrals, services and addressing other issues before the court as needed.

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 other parties whenever possible. Attorneys should seek enforcement through court order or otherwise as necessary.

6) Appellate Advocacy

- 6a. Determine whether to appeal after explaining the court order and discussing with the client all available options, including appeals.**

Commentary: When discussing the possibility of an appeal, Attorneys should promptly explain, as developmentally and age appropriate, the significance of the court order. Attorneys should discuss and advise clients about the available options when court orders are contrary to a client's position or interests. Attorneys should ensure that clients are fully aware that court orders are in effect once issued and that if court orders are disobeyed what the possible consequences may be. Attorneys should explain timeliness obligations in filing an appeal, how appellate practice works including distinctions between presentation of the case at trial and on appeal, the scope and standard of appellate 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 pursuing an appeal.

Parents' attorneys and legal counsel for children should determine whether to appeal after considering the client's wishes and whether there is a legal basis for the appeal. GALs should determine whether to appeal after considering the child's best interests, the client's wishes and whether there is a legal basis for the appeal. Attorneys should be aware of any statutory or case law which provides the client with the automatic right to appeal such as in a termination of parental rights case.

- 6b. When pursuing or responding to an appeal, timely file all necessary post-hearing motions and documents adhering to the Pennsylvania Rules of Appellate Procedure, and, as appropriate, participate in oral argument.**

Commentary: Attorneys should carefully review their obligations under the Pennsylvania Rules of Appellate Procedure to ensure compliance with the various requirements of appellate procedure and a Children's Fast Track Appeal. Attorneys should participate fully in pursuing or responding to appeals by filing motions, briefs and other pleadings and documents consistent with the position taken on appeal, and participating in oral argument when appropriate.

6c. Communicate the status and results of the appeal as appropriate.

Commentary:

Attorneys should communicate the result of the appeal to the client as soon as possible and provide a copy of the appellate decision to the client as age and developmentally appropriate. The Attorney should explain whether the appellate court affirms, reverses or remands the trial court order, and inform the client of the steps and process necessary to effectuate the appellate court's decision as well as any additional appellate options. A Attorney's responsibility to engage in further appellate advocacy is determined by the representation agreement or other scope of representation.

7) Ethical Considerations:

7a. The Rules of Professional Conduct apply to GALs and all other attorneys in dependency proceedings.

Commentary:

The Rules of Professional Conduct apply to all attorneys in dependency proceedings, including parents' attorneys, legal counsel for children, and GALs. The vast majority of children involved in dependency proceedings are represented by attorneys appointed as GALs and charged with representing the child's legal interests and best interests. 42 Pa.C.S. § 6311, Pa. R.J.C.P. 1151. Pennsylvania law recognizes the child as a party to the dependency proceedings and requires that the GAL be an attorney. Thus, GALs must understand that they are acting as Attorneys in fulfilling their responsibilities and that the Rules of Professional Conduct apply to them.

That said, the GAL must also recognize that the dual nature of the representation (i.e., legal interests and best interests) affects how certain Rules of Professional Conduct apply and/or how certain Rules of Professional Conduct should be interpreted to account for the GAL's unique responsibilities. These standards both highlight and address the unique ethical considerations that apply to GAL representation.

7b. A GAL may not testify during any proceeding in which the GAL represents the child.

Commentary:

The child's GAL is an advocate, not a witness. Pa. R.J.C.P. 1154 and 42 Pa. C.S. § 6311 explicitly require the GAL to "examine and cross-examine witnesses, and present witnesses and evidence necessary to protect the best interests of the child [and] make recommendations relating to the

Combined Standards of Practice for Parent and Child Attorneys
April 2014

appropriateness and safety of the child's placement and services necessary to address the child's needs and safety, including the child's educational, health care, and disability needs." Just like any other attorney, a GAL may, and should, make offers of proof, summarize their position for the court and analyze evidence that has been introduced. Further, GALs should take care to clarify for the court that they are not functioning as witnesses, unless pursuant to Pa. R.P.C. 3.7, "Attorney as Witness," which prohibits attorneys from acting as an advocate and a witness in the same proceeding except under one of the enumerated exceptions.

7c GALs may not reveal information related to the representation unless the client gives informed consent, the disclosure is necessary to comply with the child abuse reporting requirements of the CPSL, or the disclosure is necessary in the course of advocating for placement and services to meet the child's best interests.

Commentary:

GALs must conduct their practice so as to respect the confidentiality of both client communications and of confidential information regarding the client, whether oral or written, that comes from sources other than the client. That said, the GAL's responsibility to represent the child's best interests will at times require that the GAL disclose a client's communication or confidential information without the client's consent.

Disclosure of confidential information to serve the child's best interests is consistent with Pa. R.P.C. 1.6, which permits disclosure of confidential information, without client consent, if the disclosure is "impliedly authorized to carry out the representation." Implicit in the GAL's duties to carry out the representation under both Pa. R.J.C.P. 1154 and 42 Pa. C.S. § 6311 is that information gained in the course of the representation of the child may need to be disclosed to "present witnesses and evidence necessary to protect the best interests of the child" and "make recommendations relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety, including the child's educational, health care, and disability needs."

Because the handling of confidential information is so critical to a trusting relationship between the GAL and the child, the GAL must take care at the beginning of the representation to explain to the child the limits on confidentiality inherent to the GAL role. See section 1.d of these standards. The GAL should repeat this explanation periodically throughout the course of the representation. Further, GALs should routinely consider whether the information to be provided through disclosure of the client's communication or confidential information could be provided from a witness other than the client. If so, the GAL should elicit the information from that other witness when practicable.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

7d. Except in limited circumstances, GALs should preserve attorney-client privilege and work product privilege in their interactions with clients.

Commentary:

While the attorney-client privilege applies to GALs, as discussed in section 7c of these standards, GALs may find it necessary to disclose certain client communications to comply with the Child Protective Services Law, Rules of Professional Conduct or to advance the client's best interests. However, in general, GALs should recognize that their clients' communications with them are protected by attorney-client privilege and that their work product may be protected by the work product privilege. When interacting with clients, GALs should be mindful of preserving their ability to assert these privileges. For example, GALs should carefully consider when to meet with children with a third party present (e.g., foster parent, caseworker, placement provider staff member, CASA volunteer), since client communications during such a meeting will not be subject to privilege. Similarly, GALs who work with non-Attorney staff members must ensure that their co-workers conduct their work so as to protect any potentially applicable privileges.

7e. GALs must report suspected child abuse, in accordance with Pennsylvania's Child Protective Services Law.

Commentary:

The CPSL, in 23 Pa. C.S. § 6311(a), requires persons who come into contact with children in the course of their employment, occupation or practice of a profession to report suspected child abuse. Although the provision creates an exception for communications protected by attorney-client privilege, GALs should not rely on that provision to excuse them from making reports. Rather, the GAL's obligation to pursue the child's best interests makes reporting necessary. To build and support the child's understanding of the GAL's role and the child's rapport with the GAL, it is essential that the GAL explain his obligation to report suspected child abuse at the outset of the representation and to repeat that explanation periodically throughout the course of the representation. Further, the GAL should contact clients in advance to inform them when the GAL finds it necessary to make a report.

GALs should recognize that their child abuse reporting obligation is quite limited. The CPSL maintains the GAL's ability to assert that attorney-client privilege protects against any attempt to compel testimony about the client's confidential communications to the GAL. See 23 Pa. C.S. §6381(c). Thus, even when a GAL must make a report of suspected abuse, the GAL should continue to treat as confidential the information or communication disclosed in the report. See section 7c of these standards for a fuller discussion of confidentiality and limitations on confidentiality.

Combined Standards of Practice for Parent and Child Attorneys
April 2014

7F . Attorneys must establish systems that allow them to identify and address conflicts of interest quickly and consistently.

Commentary:

Attorneys should avoid potential conflicts of interest that would interfere with the competent representation of the client in child welfare matters, which may include refraining from:

- *Representing both the parent and child (child of a current client; parent of a current client; or when two new clients are parent and child)*
- *Representing both parents in a child welfare matter*
- *Representing two parties in a child welfare proceeding,*
- *Representing one party in a child welfare proceeding and another party in a different matter, and*
- *Representing a party where also representing an agency involved in the case.*

GALs and legal counsel for children must be particularly attentive to the potential for conflicts of interest to exist or arise between siblings as well as between unrelated child clients whose interests may conflict.

*The following situations represent common types of potential conflicts in **new** cases where GALs and legal counsel for children should strongly consider immediately declining to represent a new client, or taking on representation of only one of the clients:*

- *A parent/child relationship exists (i.e., child of a current client; parent of a current client; or when two new clients are parent and child)*
- *One child has harmed or is alleged to have harmed another child (i.e., new client has harmed current client; new client has harmed another new client)*

Other situations may involve former clients (i.e., child of former client; parent of former client). These situations require analysis under Rule 1.9 of the Rules of Professional Conduct for the GAL or legal counsel for the child to determine whether the Rules permit the GAL or legal counsel to accept the representation of the new client.

Combined Standards of Practice for Parent and Child Attorneys April 2014

*The following situations represent common types of potential conflicts in **ongoing** cases, when GALs and legal counsel for children should carefully consider whether a conflict in fact exists, and then should consider whether the GAL or legal counsel for the children must withdraw from representing the existing clients because of the conflict, or whether the Rules of Professional Conduct permit the GAL or legal counsel for the children to continue the representation:*

- *Sibling group where the Attorney is appointed as GAL for certain siblings and legal counsel for others*
- *Child has harmed/is alleged to have harmed another child (when clients either are unrelated or when siblings)*

When faced with these situations, GALs and legal counsel for children should recognize that even when clients' interests diverge, there may be strategies, based on available evidence and the status of the case, that can achieve both sets of interests if pursued simultaneously. If this is the case, GALs and legal counsel for children may be able to continue representing the clients and provide continuity of the child's attorney relationship. When the evidence will not allow for this solution, then it is likely that the GAL or legal counsel for the children will need to withdraw from the representation (or in some cases request appointment of an additional Attorney, so that child is represented by both a GAL and by legal counsel.) See Rule 1154.

GALs should note that the Pennsylvania Supreme Court suspended the portion of 42 Pa. C.S. §6311(b)(9) that provided "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." This provision was suspended by the Supreme Court under its rule-making authority because Article V, Section 10(c) of the Pennsylvania Constitution vests the Supreme Court rather than the General Assembly with the authority to determine what is or is not a conflict of interest under the Rules of Professional Conduct. See Pa.R.J.C.P. 1800. Consequently, GALs should be aware that 42 Pa. C. S. 6311(b)(9) does not create an exception to conflicts of interest arising under the Rules of Professional Conduct

Time Charts Introduction

Implementing the Standards of Practice for children and parents in dependency cases requires attorneys to perform specific tasks, each of which takes time. A key component of an attorney's ability to implement the Standards for every client will be the size of the attorney's caseload. Recognizing this, the Legal Representation Workgroup developed the following Time Charts of tasks required to meet the Standards of Practice in a typical dependency case. The Workgroup also convened separate committees of children's and parents' attorneys from differing size counties to validate the tasks and to determine a representative amount of time required for each task. Finally, the Workgroup used these Time Charts to develop the Caseload Calculations found at the end of the charts, including one for the Representation of Children and one for the Representation of Parents.

The four Time Charts contained within include the following:

- The tasks and time involved in representing a child in a **one** child dependency case;
- The tasks and time involved in representing a parent in a **one** child dependency case;
- The tasks and additional time involved in representing a child and parent when there is an added sibling; and
- The tasks and time involved in representing children or parents in a contested termination of parental rights and an appeal hearing.

The purpose of disseminating these Time Charts with the Standards is to facilitate discussion in each county regarding how much time per case it will take to implement the Standards. The Workgroup recognizes that there could be county-level differences in key assumptions (e.g., number of hearings per year) or differences in activity numbers (e.g. travel time) such that the time necessary to implement the Standards could vary by County and by Attorney, depending on any private practice or other work commitments. To that end, configurable time charts are available at (<http://www.ocfcpacourts.us/childrens-roundtable-initiative/state-roundtable-workgroups/legal-representation>).

Similarly, the Caseload Calculation sheets are meant to provide a framework from which each County and Attorney can plug in their estimated hours from the time charts, as well their County-specific data, to determine the number of hours available to work per year, percentage of clients in their first year and second year, percentage of clients who have no siblings, percentage of cases that are complex, percentage of annual cases with contested Termination of Parental Rights, etc. Configurable Caseload Calculation Sheets are also available at (<http://www.ocfcpacourts.us/childrens-roundtable-initiative/state-roundtable-workgroups/legal-representation>).

TIME / TASK CHARTS

CHILD REPRESENTATION: ONE CHILD

DUTY	SOURCE	SPECIFIC TASKS	RECOMMENDED TIME REQUIREMENTS			YOUR COUNTY	
			TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	Intake Thru 12 months	Year 2 & per year to Case discharge
CLIENT CONTACT AND COMMUNICATION							
Visit/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 visit in their living environment. Visit with the client in their living environment at least once every six months thereafter. Meet with the client as needed including before and/or after a hearing and before and/or after a client-related meeting that the client attends. 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.	Time for initial visit: 1 hour	1.00	0.00		
			Time for subsequent visits & documentation: 1 hr (minimum 2 visits per year at 1 hr per visit) + 0.5 hr. doc/visit	3.00	3.00		
			Travel time for visits: 3 x 1.25 hr ([#] of visits at [x] time traveling per visit)	3.75	2.50		
			Time meeting with client one-to-one outside of visits (at court, meetings, office, etc.) + calls/emails/texts	2.50	2.50		
<i>subtotal: CLIENT CONTACT AND COMMUNICATION</i>			10.25	8.00	0.00	0.00	
CASE PREP: DOCUMENT & RECORDS REVIEW							
Request and review relevant court and county agency records. Request and review other relevant records, for example, reports relating to parents or other custodian of client. Request and review client's records/reports.	42 PaCSA §6311(B)(2); Rule 1154(2); ABA Model Act § 7(b)(1) and (7)	Request and review CYS file and copy relevant portions of files; review pleadings Request and review reports of examinations of parents or other custodian of the child (including drug and alcohol reports, psychological reports, etc.). Request and review client records including school, medical, psychological, interactionals, and visitation records for each hearing. Obtain consent or court orders for release of records and send to records holders.	Time to review CYS file & related docs	1.50	0.00		
			Time to request and review parent related records (incl. time to obtain/provide consents or court orders): .75 hour	0.50	0.50		
			Time to request and review child-client related records: 3.5 hour	3.50	3.50		
			Travel time to access records	0.50	0.00		
<i>subtotal: CASE PREP: RECORDS REVIEW</i>			6.00	4.00	0.00	0.00	
CASE PREP: INVESTIGATION, WITNESS & EXHIBIT PREPARATION, ETC							
Conduct such further investigation necessary to ascertain the facts. Interview potential witnesses, including parents, caretakers and foster parents. Prepare witnesses and evidence. Take steps to ensure that client appears in court at least once every six months. File motions as needed	42 PaCSA § 6311(B)(4),(5); Rule 1154(4), (5); ABA Model Act § 7(b)(1) and (7)	Contact and interview potential lay witnesses and expert witnesses for example: caseworker, therapist, teachers or daycare providers, service providers, foster parents or group home, etc. Prepare witnesses to testify. Subpoena witnesses. Gather and prepare documentary evidence. 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	Contact & interview witnesses, document contact: 0.5 hr per potential witness X 5 potential witnesses per hearing = 2.5 hours per hearing X 4 hearings ; Prep witnesses for hearing: 1.5 hours for adj., 1 hour per reviews ;	12.00	11.00		

TIME / TASK CHARTS
CHILD REPRESENTATION: ONE CHILD

DUTY	SOURCE	SPECIFIC TASKS	RECOMMENDED TIME REQUIREMENTS			YOUR COUNTY	
			TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	Intake Thru 12 months	Year 2 & per year to Case discharge
			Prepare documentary evidence:	1.00	1.00		
			Time to arrange child's appearance: .25 per hearing	1.00	1.00		
			Time to prepare and file motions, objections:	1.00	1.00		
<i>subtotal: CASE PREP: INVESTIGATION, WITNESS & EXHIBIT</i>				15.00	14.00	0.00	0.00
ADVOCACY: HEARINGS							
Participate in all court proceedings. Including Pre-hearing conferences and hearings on motions to change placement and other motions. Advise the court of the child's wishes and present whatever evidence exists to support the child's wishes.	42 PaCSA § 6311(B)(3),(7),(9); Rule 1154(3),(7),(9); ABA Model Act § 7(b)(7, 9, 10)	Attend and advocate at all hearings. Advocate to the court on key issues, for example : removal, adjudication, visitation, permanency, placement, and services, etc.	Time for Adjudicatory hearing: 1 hr.	1.00	0.00		
			Time for shelter hearings: .5	0.50	0.00		
		Prepare for and advocate at pre-hearing conferences	Time for Permanency hearings: .5 hr, 4 hearings per year	1.50	2.00		
			Pre-hearing conferences: .5 hr before adj. hearing	0.50	0.00		
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 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.	Hearings on motions: .25 if just presenting or responding, .75 if contested hearing	0.50	0.50		
			Average travel time to court: .25 hr	1.00	1.00		
			Average time to prepare notes for file: .25 hr	1.00	1.00		
			<i>subtotal: ADVOCACY--HEARINGS</i>			6.00	4.50
ADVOCACY: OUT OF COURT							

TIME / TASK CHARTS

CHILD REPRESENTATION: ONE CHILD

DUTY	SOURCE	SPECIFIC TASKS	RECOMMENDED TIME REQUIREMENTS			YOUR COUNTY	
			TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	Intake Thru 12 months	Year 2 & per year to Case discharge
Attend and advocate at meetings held out of court which are important and relevant to the client's case. Maintain collateral contacts, communicate and collaborate where possible with other counsel, parties, providers, etc.		Attend and advocate at meetings held out of court which are important and relevant to the client's case, including, but not limited to meetings related to placement, treatment, family services, permanency, visitation, transition planning, and educational or school meetings. 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.	Time FSP meetings per year ([#] meetings at x minutes per meeting): .75 hr, 2 mtgs per year	1.50	1.50		
		Other case meetings per year (of other case meetings at x minutes per meeting): 2-4 at .75	2.00	3.00			
		Follow up with CYS and providers to ensure court orders are implemented;	Average travel time for meetings ([x] minutes per meeting): 1 hr	3.00	3.00		
		Provide collateral information to providers for purposes of evaluation and	Average time to prepare notes for file: .25 hr	0.75	0.75		
			Average time for communication with collateral contacts:	1.00	1.00		
<i>subtotal: ADVOCACY--OUT OF COURT</i>			8.25	9.25	0.00	0.00	
LEGAL RESEARCH AND WRITING							
Case specific research and writing	ABA Model Act § 7(b)(1)	Research law and/or placement or service options	Case specific research 1 hr	1.00	1.00		
			Consultation with supervisor or colleagues:	0.50	0.50		
<i>subtotal: LEGAL RESEARCH AND WRITING</i>			1.50	1.50	0.00	0.00	
TOTALS:			47.00	41.25	0.00	0.00	

TIME / TASK CHART

Parent Representation: One Child

			RECOMMENDED TIME REQUIREMENTS			YOUR COUNTY	
DUTY	SOURCE	SPECIFIC TASKS	TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	Intake Thru 12 months	Year 2 & per year to Case discharge
CLIENT CONTACT AND COMMUNICATION							
Communicate with client as soon as possible after appointment and on a regular basis thereafter.	ABA Parent Rep Standards 7-18, 20	Have a significant initial client meeting. Communicate with clients outside of court and regularly -- at a minimum, prior to each hearing with sufficient time to prepare. Explain role as the client's legal representative and expectations.	Significant initial client interview/visit:	2.00	0.00		
		Explain in an accessible manner the child welfare process, allegations, what will happen in court etc.	Time for subsequent substantive communication with client & documentation: (minimum 2 communications at 15 min time per hearing-may be pre & post). (meetings, calls, texts, prepping client for hearings and letters)	2.50	2.50		
		Establish a system that promotes regular client-attorney contact, provide the client with contact information and be appropriately responsive.	Average travel time for meetings with client:	0.00	0.00		
		Conduct diligent search and communicate with Incarcerated and hard to locate parents					
<i>subtotal: CLIENT CONTACT AND COMMUNICATION</i>				4.50	2.50	0.00	0.00
CASE PREP: DOCUMENT & RECORDS REVIEW							
Request and review relevant court and county agency records. Request and review client related reports, evaluations and other relevant records Request and review each child's medical, psychological and school records etc prior to each hearing as relevant.	ABA Parent Rep 19, 21, 22, 23	Request and review CYS file as needed, especially early in the case and again prior to TPR. Review pleadings	Time to review CYS file and related documents:	1.50	0.00		
		Request and review parent-related provider reports, reports of examinations (including drug and alcohol reports, psychological reports, interactional evaluations) anything else relevant prior to each hearing.	Time to request and review parent-related records (incl. time to obtain/provide consents or court orders):	2.00	2.00		
		Request and review each child's medical, psychological and school records etc prior to each hearing as relevant.	Time to review child's records/reports:	1.50	1.50		
		Obtain consent or court orders for release of records and send to records holders as needed	Travel time to review CYS or other records:	0.50			
<i>subtotal: CASE PREP--RECORDS REVIEW</i>				5.50	3.50	0.00	0.00
CASE PREP: INVESTIGATION, WITNESS & EXHIBIT PREPARATION, ETC							
Conduct a thorough and independent investigation at every stage. Prepare case for hearings.	ABA Parent Rep 20-31	In advance of hearing, address with client knowledge of witnesses and anticipated testimony; obtain records, reports or statements of other parties' witnesses	Contact & interview witnesses, document contact: 0.5 hr per potential witness X 5 potential witnesses per hearing = 2.5 hours per hearing X 4 hearings ; Prep witnesses for hearing: 1.5 hours for adj., 1 hour per reviews; Time to subpoena witnesses	12.00	11.00		
		Contact and interview potential lay witnesses and expert witnesses including: medical and mental health professionals, teachers or daycare providers, service providers, etc.					
		Prepare and secure attendance of witnesses, including expert witnesses.					
		Thoroughly prepare client for testimony; Plan effective organization of testimony based upon the theory of the case; Prepare evidence, including exhibits:	Time to gather documentary evidence and prep exhibits:	1.00	1.00		
		File objections and motions, including motion for reconsideration if appropriate.	Time to prepare and file motions, objections, etc:	1.00	1.00		

TIME / TASK CHART

Parent Representation: One Child

DUTY	SOURCE	SPECIFIC TASKS	TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	Intake Thru 12 months	Year 2 & per year to Case discharge	
<i>subtotal: CASE PREP: INVESTIGATION, WITNESS & EXHIBIT PREPARATION</i>				14.00	13.00	0.00	0.00	
ADVOCACY: HEARINGS								
Participate in all court proceedings.	ABA Parent Rep 25-28, 32, 34	Prepare for and attend all hearings. Advocate to the court about key issues like: removal, adjudication, permanency, placement, services, visitation.	Time for Adjudicatory hearing: 1 hr.	1.00	0.00			
			Time for shelter hearings: .5	0.50	0.00			
Participate in all pre-hearing conferences and hearings on motions		Prepare for and attend prehearing conferences	Time for Permanency hearings: .5 hr, 4 hearings per year	1.50	2.00			
		Identify legal or evidentiary issues which require advance ruling by the court.	Hearings on motions: .25 if just presenting or responding, .75 if contested hearing	0.50	0.50			
			Pre-hearing conferences: .5 hr before adj. hearing	0.50	0.00			
		Where possible, reach stipulations as to legal or evidentiary issues. File objections and motions for reconsideration if appropriate.						
		Average travel time to court: .25 hr	1.00	1.00				
		Average time to prepare notes for file: .25 hr	1.00	1.00				
<i>subtotal: ADVOCACY--HEARINGS</i>				6.00	4.50	0.00	0.00	
ADVOCACY: OUT OF COURT								
Attend and advocate at meetings held out of court which are important and relevant to the client's case.	ABA Parent Rep 6, 7, 11, 26 -28	Attend and advocate at meetings held out of court which are important and relevant to the client's case, including, but not limited to meetings related to placement, treatment, family services, permanency, visitation, transition planning, and educational or school meetings. 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) :	1.50	1.50			
			Other case meetings per year (of other case meetings at x minutes per meeting): 2-4 at .75	2.00	3.00			
Maintain collateral contacts, communicate and collaborate where possible with other counsel, parties, providers, etc.		Maintain communication with other counsel, caseworkers; Work with other parties to reach stipulations and joint recommendations for placement, services, visitation, etc.; follow up with CYS and providers to ensure court orders are implemented; provide collateral information to providers for purposes of evaluation and the preparation of various plans (e.g., ISP, treatment, etc).	Average travel time for meetings ((x) minutes per meeting): 1 hr	3.00	3.00			
			Average time to prepare notes for file: .25 hr	0.75	0.75			
			Average time for communication with collateral contacts:	1.00	1.00			
<i>subtotal: ADVOCACY--OUT OF COURT</i>				8.25	9.25	0.00	0.00	
EXPERTISE AND KNOWLEDGE								
Develop and maintain expertise and knowledge	ABA Parent Rep 1, 2	Engage in training and continuing education specific to child welfare representation.	Case specific research 1 hr	1.00	1.00			
Case-specific research and writing		Case-specific research on law and/or placement or service options.	Consultation with supervisor or colleagues:	0.50	0.50			
<i>subtotal: EXPERTISE AND KNOWLEDGE</i>				1.50	1.50	0.00	0.00	
TOTALS				39.75	34.25	0.00	0.00	

CHILD AND PARENT REPRESENTATION: ONE ADDED SIBLING

DUTY	SOURCE	SPECIFIC TASKS	RECOMMENDED TIME REQUIREMENTS				YOUR COUNTY		
			TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	PARENT REP FOR ADDED SIB CASE	Intake Thru 12 months	Year 2 & per year to Case discharge	PARENT REP FOR ADDED SIB CASE
CLIENT CONTACT AND COMMUNICATION									
GAL and counsel for children: Visit/meet with minor client as soon as possible after appointment and on a regular basis thereafter. Parent lawyer: Visit/meet with parent about additional child.	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 visit with the child in their living environment. Visit with the child client in their living environment at least once every six months thereafter. Meet with the client as needed including before and/or after a hearing and before and/or after a client-related meeting that the client attends. Explain role as the client's legal representative and expectations. Explain in a developmentally and language 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.	Time for initial visit: 1 hour (diff. pl.), .25 (same pl.)	0.67	0.00	0.25			
			Time for subsequent visits: 1 hr (diff. pl.) .25 (same pl.) minimum 2 visits a year at 0.67 hr. per visit)	1.34	1.34	0.00			
			Travel time for visits: 1.25-1.5 hr per visit (diff. pl.), 0 (same pl.)	1.87	1.87	0.00			
			Time to document a visit: 0.5 hr (diff. pl.), 0 (same pl.)	0.25	0.25	0.00			
			Time meeting with client one-to-one outside of visits (at court, meetings, office, etc.) + calls/emails/texts	0.50	0.50	0.25			
<i>subtotal: CLIENT CONTACT AND COMMUNICATION</i>				4.63	3.96	0.50			0.00
CASE PREP: DOCUMENT & RECORDS REVIEW									
Request and review relevant court and county agency records. Request and review relevant records, evaluations, reports concerning the parent/legal custodian. Request and review relevant records, evaluations, reports concerning the child.	42 PaCSA §6311(B)(2); Rule 1154(2) ; ABA Model Act § 7(b)(1) and (7)	As needed request and review CYS file; obtain copies of relevant documents in CYS file; review pleadings Request and Review parent/legal custodian records/reports pertaining to court ordered services and evaluations (including drug and alcohol treatment and screens, psychological evaluations, domestic violence counseling, parenting instruction, visitation, etc.). Request and review child's records and evaluations including school, medical, psychological records for each hearing. Obtain consent or court orders for release of records and send to records holders.	Time to review CYS file & related docs: .25 hour	0.25	0.00	0.25			
			Time to request and review parent-related records:	0.00	0.00	0.00			
			Time to request and review child-related records:	3.50	3.50	1.00			
			Average travel time to access records: 0 hr	0.00	0.00	0.00			
<i>subtotal: CASE PREP--RECORDS REVIEW</i>				3.75	3.50	1.25			0.00
CASE PREP: INVESTIGATION, WITNESS & EXHIBIT PREPARATION, ETC									

CHILD AND PARENT REPRESENTATION: ONE ADDED SIBLING

DUTY	SOURCE	SPECIFIC TASKS	RECOMMENDED TIME REQUIREMENTS				YOUR COUNTY		
			TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	PARENT REP FOR ADDED SIB CASE	Intake Thru 12 months	Year 2 & per year to Case discharge	PARENT REP FOR ADDED SIB CASE
Conduct such further investigation necessary to ascertain the facts. Interview potential witnesses, caretakers and foster parents). Prepare witnesses and evidence. Take steps to ensure that child client appears in court at least once every six months. File motions as needed	42 PaCSA § 6311(B)(4),(5); Rule 1154(4), (5); ABA Model Act § 7(b)(1) and (7)	Contact and interview individuals for case investigation and to determine potential witnesses, i.e., caseworker, therapist, teachers or daycare providers, service providers, foster parents or group home, etc. Prepare witnesses to testify. Subpoena witnesses. Gather and prepare documentary evidence. Document investigation and interviews in file as needed for case and hearing prep.	Contact and interview witnesses: 0.5 hr per potential witness X 4 potential witnesses per hearing = 2.0 hours per hearing X 4 hearings per year; time to subpoena witness: prep witnesses for hearing: .25-.5 hours for adj., .25-.5 hour per reviews. Adjusted for parents.	7.50	7.50	3.00			
		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							
		Prepare documentary evidence:	0.25	0.25	0.25				
		Time to arrange youth's appearance:	0.38	0.38	0.00				
		Time to prepare and file motions, objections:	0.38	0.38	0.38				
<i>subtotal: CASE PREP--INVESTIGATION, WITNESS & EXHIBIT</i>				8.50	8.50	3.63			0.00
ADVOCACY: HEARINGS									
Participate in all court proceedings. Including Pre-hearing conferences and hearings on motions to change placement and other motions. Advise the court of the child's wishes and present whatever evidence exists to support the child's wishes.	42 PaCSA § 6311(B)(3),(7),(9); Rule 1154(3),(7),(9); ABA Model Act § 7(b)(7, 9, 10)	Attend and advocate at all hearings. Advocate to the court on key issues, for example : removal, adjudication, visitation, permanency, placement, and services, etc.	Time for Adjudicatory hearing: 1 hr.	0.25	0.00	0.25			
		Prepare for and advocate at pre-hearing conferences	Time for shelter hearings: 0	0.00	0.00	0.00			
		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.	Time for Permanency hearings: 4 hearings per year	0.75	0.75	0.75			
		Make specific recommendations or argument 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 or argument regarding: appropriateness/ stability of educational placement, If needed, appointment of education decision-maker, service plan to meet client's health care and disability needs.	Pre-hearing conferences: 0 hr before adj. hearing	0.00	0.00	0.00			
Make specific recommendations or argument 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 or argument 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 or argument regarding: appropriateness/ stability of educational placement, If needed, appointment of education decision-maker, service plan to meet client's health care and disability needs.	Hearings on motions:	0.25	0.25	0.25			
		Travel time to court: 0 hr	0.00	0.00	0.00				
		Time to prepare notes for file: 0 hr	0.00	0.00	0.00				
<i>subtotal: ADVOCACY--HEARINGS</i>				1.25	1.00	1.25			0.00
ADVOCACY: OUT OF COURT									

CHILD AND PARENT REPRESENTATION: ONE ADDED SIBLING

DUTY	SOURCE	SPECIFIC TASKS	RECOMMENDED TIME REQUIREMENTS			YOUR COUNTY			
			TIME REQUIREMENTS: "Typical -- what it should be, tempered by what is"	Intake Thru 12 months	Year 2 & per year to Case discharge	PARENT REP FOR ADDED SIB CASE	Intake Thru 12 months	Year 2 & per year to Case discharge	PARENT REP FOR ADDED SIB CASE
Attend and advocate at meetings held out of court which are important and relevant to the client's case. Maintain collateral contacts, communicate and collaborate where possible with other counsel, parties, providers, etc.		Attend and advocate at meetings held out of court which are important and relevant to the client's case, including, but not limited to meetings related to placement, treatment, family services, permanency, visitation, transition planning, and educational or school meetings. 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.	Time FSP meetings per year ([#] meetings at x minutes per meeting): .25 hr, 2 mtgs per year	0.50	0.50	0.50			
			Other case meetings per year (of other case meetings at x minutes per meeting): 2 at .75, 1 at .25	1.75	1.75	1.75			
			Average travel time for meetings: 1 hr per mtg	2.00	2.00	2.00			
			Time to prepare notes for file: .25 hr per	0.50	0.50	0.50			
			Time for communication with collateral contacts:	0.50	0.50	0.50			
<i>subtotal: ADVOCACY: OUT OF COURT</i>			5.25	5.25	5.25			0.00	
LEGAL RESEARCH AND WRITING									
Case specific research and writing		Research law and/or placement or service options	Case specific research .5 hr	0.50	0.50	0.50			0.50
			Consultation with supervisor or colleagues:	0.25	0.25	0.25			0.25
<i>subtotal: LEGAL RESEARCH AND WRITING</i>			0.75	0.75	0.75			0.75	
TOTALS:				24.13	22.96	12.63			0.75

TIME / TASK CHARTS

Contested Termination of Parent Rights and Appeal

CONTESTED TERMINATION CASE	RECOMMENDED TIME REQUIREMENTS			
			YOUR COUNTY	
TASK	TIME ESTIMATE-- CHILD	TIME ESTIMATE -- PARENT	TIME ESTIMATE-- CHILD	TIME ESTIMATE -- PARENT
Prepare/file entry of appearance	0.5	0.5		
Review file, records	6	6		
Communicate & prep client		2.5		
Contact with/prep potential witness(es)	3	3		
Contact with other counsel	0.5	0.5		
Prepare and serve subpoena(s)	0.5	1		
Conduct legal research	2	2		
Prepare/file pre-trial statement	1.5	1.5		
Prepare for hearing/case prep/exhibits	6	6		
Attend termination hearing(s), including travel	4	4		
Write proposed findings of fact/conclusions of law, closing argument – (6 hours but doesn't happen in all cases; adjusted to 2 hours)	2	2		
TOTAL: CONTESTED TERMINATION CASE	26	29		0

TPR (OR OTHER) APPEAL	RECOMMENDED TIME REQUIREMENTS			
			YOUR COUNTY	
TASK	TIME ESTIMATE-- CHILD	TIME ESTIMATE -- PARENT	TIME ESTIMATE-- CHILD	TIME ESTIMATE -- PARENT
Client consultation		1.5		
Notice of appeal, Rule 1925(b) Statement & related docs		1.5		
Review transcript(s), trial court opinion, briefs	5	5		
Review appellate record, including travel	1	1		
Conduct legal research	4	4		
Write appeal brief	25	30		
Prepare brief for filing	4	4		
File brief, including travel	0.5	0.5		
Prepare for oral argument	10	10		
Attend oral argument, including travel and down time in court	4	4		
TOTAL: APPEAL	53.5	61.5		

CASELOAD CALCULATION

REPRESENTATION OF CHILDREN

1536 hours = hours available to work per year (i.e., 32 hours/week x 48 weeks)

47 # hours per year for One Child representation in the first year (See "One Child" Chart)

41.25 # hours per year for One Child representation in the second year (See "One Child" Chart)

24.13 # hours per year for One Added Sibling representation in the first year (See "Added Sibling" Chart)

22.96 # hours per year for One Added Sibling representation in the second year (See "Added Sibling" Chart)

60% Assume 60% of clients are in their first year and 40% are in the second year

40% Assume 40% are in the second year

45% % of clients have no sibs (assumption) and 55% have sibs

55% % of clients have sibs (assumption)

44.70 hours = average hours per year for clients with no sibs (i.e., combination new and 2d year cases)

23.66 hours = average hours per year for clients with sibs (i.e., combination new and 2d year cases)

33.13 hours = average hours per year per client for all "typical" clients
rate: 90% of caseload is typical

45.13 hours = average hours per year per client for "complex" cases (i.e., 33.54 + 12 hours per complex case; See Complexity Chart)
rate: 10% of caseload is complex

34.33 hours = average hours per year per client for all cases (90% typical + 10% complex case)

44.74 CLIENTS PER YEAR (i.e. total hrs per yr/average hrs per yr per client for all clients; static caseload-- assumes all cases are open the whole year)(90% "typical", 10% complex)

71.59 **TOTAL ANNUAL CASELOAD PER FULL-TIME LAWYER** (i.e., clients per yr x 1.6; dynamic caseload-- assumes turnover rate of 60% close during year; not including TPRs or appeals)

ADDITIONAL CALCULATIONS:

26 hours = **contested TPR** (See TPR & Appeal Chart): 7% of caseload is contested TPR [104/1467]= 0.0709
1.843 = total hours per case for contested TPRs

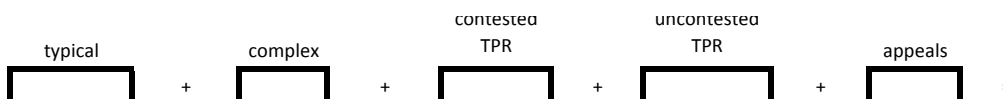
18 hours = **uncontested TPR** (See TPR & Appeal Chart): 2% of caseload is uncontested TPR [26/1467]= 0.0177
0.319 = total hours per case for uncontested TPRs

53.5 hours = **appeals** (See TPR & Appeal Chart): 2% of caseload is appeals [23/1467]= 0.0157
0.839 = total hours per case for appeals

3.00 = total hours for all TPRs and appeals (to be applied for all cases)

37.33 hours = average hours per year per client for all cases (including TPRs and appeals)

65.83 TOTAL ANNUAL ADJUSTED CASELOAD PER FULL-TIME CHILDREN'S LAWYER (dynamic caseload-- assumes turnover rate of 60% close during year; including time for complexity, TPRs, appeals)



** Assumptions on sibling groups, time of service and rate of TPRs and appeals based on preliminary data supplied by KidsVoice, Allegheny County Bar Foundation Juvenile Court Project and Allegheny County DHS Office of Data Analysis, Research & Evaluation (DARE).

CASELOAD CALCULATION

REPRESENTATION OF

PARENTS

- 1536 hours = hours available to work per year (i.e., 32 hours/week x 48 weeks)
- 39.75 # hours per year for One Child representation of parent in the first year (See "One Child" Chart)
- 34.25 # hours per year for One Child representation of parent in the second year (See "One Child" Chart)
- 12.63 # hours per year for One Added Sibling representation of parent in the first year (See "Added Sibling" Chart)
- 12.63 # hours per year for One Added Sibling representation of parent in the second year (See "Added Sibling" Chart)
- 60% Assume 60% of clients are in their first year and 40% are in the second year
- 40% Assume 40% are in the second year
- 45% % of clients have one child (assumption)
- 55% % of clients have more than one child (assumption)
- 37.55 hours = average hours per year for parents of children with no sibs (i.e., combination new and 2d year cases)
- 12.63 hours = average hours per year for parents of children with sibs (i.e., combination new and 2d year cases)
- 23.84 hours = average hours per year per client for all "typical" clients
rate: 90% of caseload is typical
- 35.84 hours = average hours per year per client for "complex" cases (i.e., 23.84 + 12 hours per complex case; See Complexity Chart)
rate: 10% of caseload is complex

25.04	hours =	average hours per yr per client for all clients (90% "typical", 10% complex)
61.33		CLIENTS PER YEAR (i.e. total hrs per yr/average hrs per yr per client for all clients; <u>static caseload</u> -- assumes all cases are open the whole year)(90% "typical", 10% complex)
98.13		TOTAL ANNUAL CASELOAD PER FULL-TIME LAWYER (i.e., clients per yr x 1.6; <u>dynamic caseload</u> -- assumes turnover rate of 60% close during year; <u>not</u> including TPRs or appeals)

ADDITIONAL CALCULATIONS:

- 29 hours = **contested TPR** (See TPR & Appeal Chart): 7% of caseload is contested TPR [104/1467]= 0.0709
2.06 = total hours per case for contested TPRs
- 18 hours = **uncontested TPR** (See TPR & Appeal Chart): 2% of caseload is uncontested TPR [26/1467]= 0.0177
0.319 = total hours per case for uncontested TPRs
- 61.5 hours = **appeals** (See TPR & Appeal Chart): 2% of caseload is appeals [23/1467]= 0.0157
0.964 = total hours per case for appeals
- 3.34 = total hours for all TPRs and appeals (to be applied for all cases)**
- 28.38** hours = average hours per year per client for all cases (including TPRs and appeals)

86.59	TOTAL ANNUAL ADJUSTED CASELOAD PER FULL-TIME PARENT LAWYER (dynamic caseload-- assumes turnover rate of 60% close during year; including time for complexity, TPR, appeals)
--------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



** Assumptions on sibling groups, time of service and rate of TPRs and appeals based on preliminary data supplied by KidsVoice, Allegheny County Bar Foundation Juvenile Court Project and Allegheny County DHS Office of Data Analysis, Research & Evaluation (DARE).



This publication has been made possible by a Court Improvement Program grant from the U.S. Department of Human Services, Children's Bureau. The views expressed herein have not been approved by the U.S. Department of Human Services, Children's Bureau and, accordingly, should not be construed as representing the policy of the Children's Bureau.



For additional copies of this brochure please contact:

Office of Children & Families in the Courts
Administrative Office of the Pennsylvania Courts
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 1500
PO Box 61260

Harrisburg, PA 17106-1260

Phone: (717) 231-3300

Fax: (717) 231-3304

www.ocfcpa.courts.us