

Moving Children to Timely Permanence

Training for Legal Representation for Children and Parents

A Report to the Pennsylvania State Roundtable
May 2010





JUDGE'S CHAMBERS
FIFTIETH JUDICIAL DISTRICT OF PENNSYLVANIA
COURTHOUSE
SOUTH MAIN STREET
P.O. BOX 1208
BUTLER, PENNSYLVANIA 16003-1208

KELLEY STREIB
JUDGE

TELEPHONE
(724) 284-1447

May 25, 2010

Dear Members of the State Roundtable,

The Pennsylvania child dependency system is charged with ensuring "that every child grows up in a safe, nurturing, and permanent family." Ultimately, that disposition falls upon the Judiciary. Yet often the people we serve can not articulate their own interests before the Court. They place their voice and their lives in the hands of legal advocates.

Our Guiding Principles acknowledge the call to meet what are often complex practical needs of children while simultaneously engaging parents. Specifically, the child dependency system must "assure timely and thorough court hearings" and "competent legal representation." For the past six months the Legal Representation Workgroup has earnestly examined ways to provide training for guardian ad litem and parent attorneys so that there is accountability for these vital system participants.

The following report and recommendations are based upon the Workgroups unanimous decision that core training for advocates is essential to promoting and implementing this State Roundtable priority as well as the Mission and Guiding Principles for Pennsylvania's Dependency System.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kelley Streib".

Kelley Streib, Judge
Chairperson,
Legal Representation Workgroup Members

Legal Representation Workgroup Members

Chairperson

Honorable Kelley Streib
Judge
Court of Common Pleas
Butler County

Members

Sharon Biasca, Esq.
Deputy Administrator
Allegheny County Children's Court

Craig B. Bluestein, Esq.
Guardian Ad Litem
Montgomery County Public Defender,
Juvenile Division

Frank P. Cervone
Executive Director
Support Center for Child Advocates

Leah Cullen, Esq.
Supervisor and Conciliation Coordinator
KidsVoice

Sharon S. England, JD, MSW, BSW
Curriculum and Instructional Specialist
The PA Child Welfare Training Program
University of Pittsburgh, School of SW

Eleanor Grainy
Director
Allegheny County Bar Foundation Juvenile
Court Project

Katherine Gomez, Esq.
Managing Attorney
Family Advocacy Unit
Community Legal Services of Philadelphia

Honorable Carol Hanna
Judge
Court of Common Pleas
Indiana County

Cindi Horshaw
Director, Program Policy Unit
Department of Public Welfare
Office of Children, Youth and Families

Wendy B. Hoverter, LCSW
Administrator
Cumberland County Children and Youth
Services

Mimi Laver, JD
Director, Legal Education
ABA Center on Children and the Law

Laurie O'Connor
Director
Montgomery County Office of Children and
Youth

John Perrott, Esq.
Parent Advocate
Fayette County

Virginia Sharp, Esq.
Guardian Ad Litem
Venango County

Christy R. Stanek
Deputy Administrator
Washington County Children and Youth
Services

Cynthia K. Stoltz, Esq.
Administrator
Allegheny County Children's Court

Andrea Marceca Strong, Esq.
Chair, Children's Rights Committee
Pennsylvania Bar Association

Kerith Strano Taylor, Esq
Guardian Ad Litem
Jefferson County

Ronald N. Thomas, Esq.
Guardian Ad Litem
Butler County

Cathy Utz
*Director, Bureau of Policy, Program, and
Operations*
Department of Public Welfare
Office of Children, Youth and Families

**Office of Children and Families in the
Court Staff**

Sandy Moore
Administrator
Administrative Office of PA Courts
Office of Children & Families in the Courts

Lynne Napoleon
Judicial Programs Analyst
Administrative Office of PA Courts
Office of Children & Families in the Courts

**Moving Children to Timely Permanence:
Training for Legal Representation for Children and Parents**

A Report to the State Roundtable of Pennsylvania

Background:

In 2009, through the roundtable system utilized by the state of Pennsylvania, leaders in the child welfare and child dependency system began discussing the need for well-trained legal representatives for children and parents. Conversation regarding the need for unified and quality representation began in the context of expediting safe, timely permanence. At the same time, a growing awareness that high quality representation for parents in the dependency system would lead to parents who better understood proceedings and had a better source of legal support was developing. This enhanced understanding combined with better quality legal representation was seen as key to increasing the urgency with which parents approached the issues to be resolved within their lives. Where this happened, more timely permanence was the result.

While quality training on a variety of topics within the legal community in Pennsylvania exists, there is little training specifically addressing the needs of attorneys for children and parents within the child dependency system. Training that does exist tends to be localized addressing the needs of a specific community/agency or covering subject matters that reflect the hot topics or current interest areas of the field, all very important and necessary to a well-trained and informed legal community. (The gap in the provision of legal education however was comprehensive and uniform training for the new legal practitioner in the child dependency system provided in a statewide manner.) With the currently emerging paradigm shift in the need for Pennsylvania's child dependency practice, it became readily apparent to many that the time had come to address the issue of training for the legal representatives currently practicing within the system and those who would enter in the future.

In the spring of 2009, the State Roundtable convened and charged the Office of Children and Families in the Courts to develop a set of recommendations regarding pre-service and ongoing training for *guardians ad litem* (GALs) and parent attorneys. The Legal Representation Workgroup was convened in the fall of 2009 and has rigorously worked to develop a comprehensive educational package for attorneys who work in Pennsylvania's dependency system. The workgroup is a collaborative effort comprised of individuals representing the judicial, legal and child welfare systems on both a state and county level as well as representation from the American Bar Association. As work initiated, the group reviewed national models regarding training for legal representatives in child dependency, surveyed the state of Pennsylvania regarding issues specific to *guardians ad litem*, and developed a plan and objectives for both pre-service and core training. Contained within this report are

proposed workgroup recommendations developed to address the need for and commencement of training for legal professionals within the child dependency system.

National Perspective:

Nationally, the issue of ensuring high quality representation for children and parents has begun to take on more importance as children's issues have moved to the forefront of attention. The preparation of attorneys to represent children, and to somewhat of a lesser degree parents, has led to law school programs issuing child advocacy specialty certificates and combination programs with schools of social work. Both the National Association of Counsel for Children (NACC) and the American Bar Association (ABA) have position papers on *guardians ad litem*. Additionally, the American Bar Association has a position paper on counsel for parents. Both have a national conference annually to address issues of representation as well as other more generic topics that are relevant to children and parents. Under contract with the federal Children's Bureau, a national resource center has been developed to provide technical assistance and resources on judicial and legal issues (<http://www.abanet.org/child/rcjji/>).

Both NACC and the ABA have a set of practice standards for attorneys that include the issue of training. Although their models of representation differ, both organizations include training as a priority item for high quality representation. While no standards for methods of delivery are offered, comprehensive topic areas necessary for such representation are included. Generally, in addition to the relevant federal and state laws, agency regulations, court rules, applicable case law and roles and responsibilities, each model includes subject areas that are non-legal in nature but impact the lives of the children and families involved in the child dependency system. A broad array of topics is suggested including, but not limited to, trauma, the effects of maltreatment, child development, mental health, substance abuse, domestic violence, education, family dynamics, and education. Both models emphasize the need to educate attorneys new to the field as well as ensure periodic training opportunities for more experienced practitioners highlighting new practices and developments.

Recently, First Star, a national organization whose mission is to improve the lives of abused and neglected children, together with the Children's Advocacy Institute, part of the Center for Public Interest Law at the University of San Diego School of Law, published a comprehensive report entitled *A Child's Right to Counsel: a National Report Card on Legal Representation for Abused and Neglect Children, Second Edition* (<http://www.firststar.org/>). The report rated each state on a uniform set of criterion, one of which was the requirement for specialized education and training of counsel for children and whether or not that training was multidisciplinary in nature. The following nine states received perfect scores in the area of training: Arkansas, California, Connecticut, Kansas, Louisiana, Missouri, New Mexico, Oregon, and Virginia. Each of these states requires training through a statutory requirement, a court rule, or Supreme Court administrative order. The number of hours required is specified as are the multidisciplinary topic areas and whether the training is to be pre-service training,

ongoing training or both. Nationally, thirty-four of the fifty states require training for *guardians ad litem* and fourteen explicitly or implicitly require that training to be multidisciplinary in nature. Pennsylvania did not score well in the area of training, receiving a score of zero out of ten because the law does not require specialized education and/or training for child’s counsel (overall PA received a “B” grade).

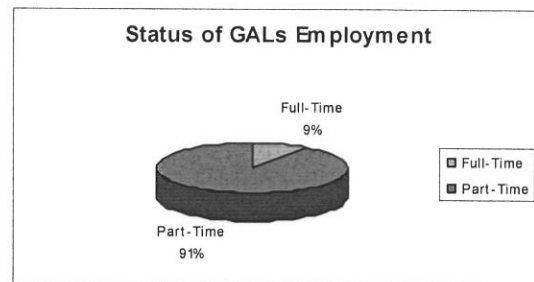
Federal law also has some impact on the issue of training *guardians ad litem*. The Child Abuse Prevention and Treatment Act (CAPTA) as amended in 1996 requires states receiving federal grant money for the prevention, treatment and investigation of abuse to appoint a GAL to represent abused and neglected children in every case that requires a judicial proceeding. CAPTA further mandates that prior to receiving the first appointment, a GAL will receive pre-service training appropriate to their role. Pennsylvania has struggled to comply with the provisions of CAPTA that relate to training for GALs and could receive financial penalties through the basic state grant. As it is an element that is reviewed in the Child and Family Service Review and addressed in Pennsylvania’s Program Improvement Plan, financial penalties to IV-B could also be assessed for failing to meet established time frames. These federal mandates underscore the need for training in the provision of high quality representation.

Statewide Perspective:

With training being linked to high quality representation, it was decided that a comprehensive look at what was currently happening in Pennsylvania was needed. A survey regarding GALs was compiled that addressed basic information such as the number of GALs in counties; their employment status; process of appointment; and how often new GALs are added.

Additionally, the issue of training was addressed soliciting responses to questions regarding any local requirement for pre-service or ongoing training; whether specific training was offered; and which issues were seen as the priority training topics.

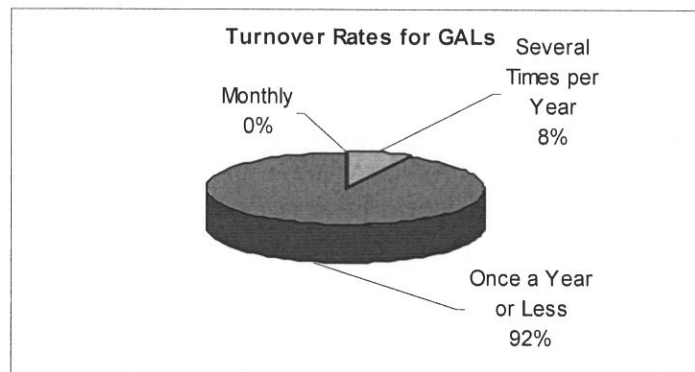
Surveys were sent to the lead dependency judge and Children and Youth administrator in each of the 67 counties. Responses were received from 50 counties including 26 of the 27 Permanency Practice Initiative Phase 1 and 2 counties¹. It was determined from responses that



¹Counties included: Lackawanna, Chester, Warren, Forest, Indiana, Venango, Allegheny, Washington, Butler, Armstrong, Snyder, Dauphin, Montgomery, York, Carbon, Tioga, Bucks, Luzerne, Lehigh, Northampton, Franklin, Jefferson, Blair, Cumberland, Clinton, Adams, Delaware, Fayette, Lebanon, Mifflin, Clearfield, Union, Wyoming, Lawrence, Wayne, Lycoming, Huntingdon, Potter, Westmoreland, Clarion, Beaver, Crawford, Lancaster, Elk, Cameron, Northumberland, Bedford, Schuylkill, Centre

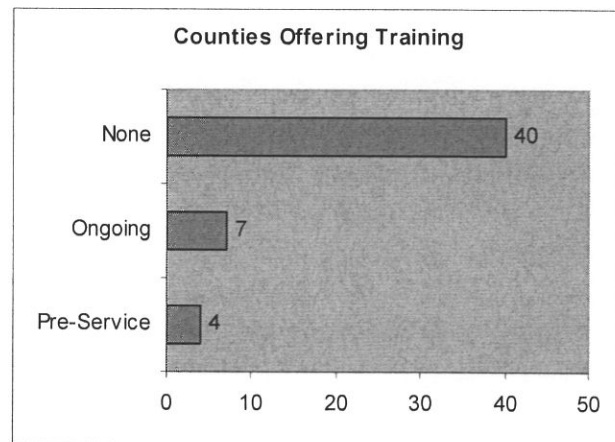
there are at least 361 GALs in Pennsylvania with most practicing on a part-time basis (91%).

Survey results also demonstrated very little GAL turnover with 92% of the counties noting that they add a new GAL one time per year or less and many of those counties surveyed adding anecdotal information that their GALs had been working in the child dependency system for many years. Only a small percentage of counties, 8%, responded that they added a new GAL to their appointment list several times per year and no county added one as frequently as monthly. Based on survey results, it appears providing consistency of representation for children is a strength in the Pennsylvania child dependency system. Such consistency has been shown to provide for more timely permanency for children as their legal representative is familiar with their case and have a big picture perspective on the entirety of the proceedings.



Another strength noted in Pennsylvania is adherence to the juvenile procedural rules that require GALs to be appointed early in dependency proceedings. Most counties reported GALs being appointed prior to or at the shelter hearing if the case is opening in an emergency situation or at the filing of the dependency petition if the child remains in the home of the parent or guardian. Very few counties reported the appointment of GALs prior to the adjudication hearing and only two reported appointment occurring at the adjudication hearing.

In regards to pre-service and ongoing training Pennsylvania counties demonstrated a keen interest in this for their GALs. Unfortunately, training is not readily available. Most counties have no requirements for training prior to becoming a GAL and offer sporadic training once an appointment has been received. Of fifty counties responding to the survey, only 4 counties reported offering pre-service training to their GALs prior to appointment. Only two of those four counties required the

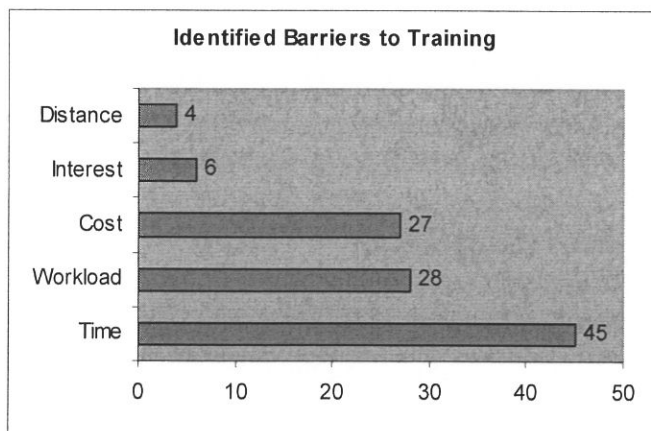


training. Seven counties responded that they offer some form of ongoing training, most often something provided through their local bar association or through the ABA's yearly training in Pennsylvania. The other forty counties reported no requirement or offering of training for GALs. Almost all respondents included topics they believe would be beneficial to address in training. Of special note was the overwhelming consensus that defining the role of the GAL and the duties required of the GAL, especially as it relates to visiting the child outside of the courtroom, were critical topic areas to address in training. Other training areas suggested included interviewing and communication techniques with children, family engagement, dealing with the traumatized child, child development, and grief and loss issues.

Additionally, there was a general realization that GALs are extremely busy and those that are practicing part-time often have other private practice clients needing their attention. Both issues were identified as barriers to the GAL's ability to attend training that is already offered through other legal service organizations. Other than time and workload, two interrelated factors, cost was cited as an issue by more than half of the respondents. In many counties, budgetary constraints make it difficult to underwrite training costs and private practitioners who have a passion for representing children often do so for far less than they could receive if working in another area of law. Costly legal training can be prohibitive resulting in GALs attending training that are low cost but may be less than relevant to the work they are doing.

A survey was not completed regarding parent advocates. While there is a deep recognition within the child dependency system that high quality representation of parents leads to better outcomes for children and more timely permanence, the workgroup decided to forgo the issuance of a survey. Instead, workgroup members believed information regarding the large number of parent advocates practicing in Pennsylvania was already evident including the high turnover rate. Additionally workgroup members anticipate training needs similar to those identified for GALs with a few supplements. Additionally, parent advocates across the state have been asking for training to assist in the handling of complex and multidisciplinary cases with which they find themselves working. The workgroup is hopeful parent attorneys to some degree can participate in training developed for GALs.

Survey results and anecdotal information received through many sources, including the



Leadership Roundtables, certainly point to gaps in the area of training for both GALs and parent advocates in Pennsylvania. No county offers a core-training program for newly practicing GALs and very few offer pre-service training even though such is mandated when using federal funds to support the positions. The development of training by this workgroup will meet a real as well as perceived need and will do so in a

timely fashion addressing the needs of Pennsylvania's children and families as well as the state's Program Improvement Plan created to address concerns identified during the Child and Family Service Review process.

Training Objectives and Delivery:

The undertaking of planning and delivering comprehensive and high quality training for the legal representatives of parents and children in the child dependency system is a work in progress. While pre-service training is of paramount importance to the work being done, the workgroup proposes to extract the best and most relevant information from Core Training to create the Pre-Service training module. Since survey results surprisingly showed very little GAL turnover, the immediate need for Pre-Service training was determined to be minimal. As such, the workgroup decided to focus on the development and delivery of Core Training. From Core Training pilot modules, Pre-Service training would be developed and implemented.

The workgroup considered many factors in planning for training. There was an immediate consensus that training should be relevant, focused, and as engaging as possible. Much of the standard information, such as governing laws, rules and regulations, would be provided in required pre-work. This would enable the limited training time to be used for matters not readily available to attorneys through their legal educational process or other sources. Because the workgroup wanted to assist attorneys in their role as representatives for children and parents, focusing on practical information that could be immediately used in their day-to-day practice became the training priority. Highlighting information within the context of hearing types seemed to make logical sense. As such, the training will progress through the life of a dependency case, presenting tips, information, and practices that would be relevant to each hearing and emphasizing preparation that needs to be done between the hearings to facilitate effective client representation. Woven throughout the entire training will be general concepts of legal practice, such as ethical considerations and the evidentiary standards as they apply to each hearing type.

Overarching objectives for the training include attorneys understanding the Mission and Guiding Principles of Pennsylvania's Child Dependency System as well as understanding their roles/responsibilities and the roles/responsibilities of other system participants. Upon completion of training, advocates should be able to understand the child welfare system; the needs and best interests of children; types of family systems and vulnerable populations; and how to provide culturally sensitive practice to their clients. A sampling of more specific objectives by hearing type can be found below. Note that the sample list is currently incomplete. A complete list of learning objectives will be presented at the 2011 State Roundtable meeting upon completion of a pilot training series and corresponding evaluation.

SHELTER HEARING

The advocate will be able to:

- define dependent child
- describe the importance of not making promises to a child about outcomes of hearings
- recognize factual scenarios which require conflict counsel

ADJUDICATION HEARING

The advocate will be able to:

- identify relevant records, reports, and pleading to review
- demonstrate in a mock setting the skills necessary for pre-adjudication client consultation
- define “front loading of services”, explain its importance, give examples
- define “ready, willing, and able parent” as set forth in **In Re: M. L.**

DISPOSITIONAL HEARING

The advocate will be able to:

- recognize factors to consider in the education of a child including school placement, Individual Education Plans, homeless child status
- identify relevant factors to placement choice including least restrictive, sibling bonds, school stability and safety
- describe the importance of a transition plan for independent living youth

PERMANENCY REVIEW HEARING

The advocate will be able to:

- explain best practices for maintaining contact with clients between hearings
- distinguish between an in-home safety assessment and out-of-home care safety assessment
- distinguish between a generic or vague family service plan and a plan with specific and measurable goals

The delivery of training is expected to be engaging and interactive. Teaching techniques will be varied and include mock proceedings, role-play scenarios, interactive material presentations as well as “nutshells” to address more mundane information. Training will be regionalized, in-person sessions to minimize travel for participants. Local experts will be included as guest presenters with pre-recorded demonstration segments or panel information to ensure that all regional sites have the same high quality information being presented.

It is the workgroup’s expectation that very high quality training can be provided at very low cost. It is envisioned that sessions will cost no more than \$50.00. This registration will cover the cost of CLEs and refreshments. It is further believed that some financial contribution on the part of the attorney will provide for a greater participant investment in the training process. Finally, in a collaborative effort to have highly skilled GALs representing Pennsylvania’s children, the Department of Public Welfare’s Office of Children, Youth and

Families will permit county Children and Youth agencies to include in their Needs Based Plan & Budget requests, travel costs and lodging for GAL core training.

Initial rollout, barring any unforeseen delays, is anticipated to begin in the spring of 2011 for Permanency Practice Initiative Phase 1 and 2 counties. One initial pilot training session will be provided with information gathered via evaluations and pre and post testing to rate the effectiveness of the training. Any adjustments needed to provide the best possible training experience will be made prior to conducting additional training sessions. The occurrence of training sessions is anticipated to be of greater frequency during the first two years of implementation as Pennsylvania's GALs and parent advocates are cycled through the Core Training. Following that period, it is expected the need for training will decrease. Future need may be limited to one time per year at which point a more centralized location would increase efficiency while reducing costs.

Finally, to assure that all of the state's children and parents have access to high quality legal representation, it is the consensus of the workgroup that the Pre-Service and Core Training be mandatory for all Court Appointed GALs and parent advocates in Pennsylvania. Other organizations and institutional legal services agencies are welcome to create and offer their own trainings for staff and colleagues to supplement these trainings but not replace them.

Recommendations:

Those wishing to be Court Appointed GALs and Parent Advocates shall participate in pre-service training:

- Training shall be mandatory and completed by all GALs and PAs regardless of any other training provided by individual agencies or entities to ensure consistency and uniformity throughout the state.
- Training shall be completed prior to first appointment.
- Training shall be in an easy to access format, preferably on DVD or in a web-based format.
- Continuing Legal Education credits will be offered for completion of the training as approved by the CLE Board.
- Completion of training shall be documented via an affidavit of completion signed by the attorney.
- Affidavits of completion shall be submitted to the local Children and Youth Services agency if the position is funded through their office or submitted to the designee of the court administrator or judge if a list of attorneys to be appointed is maintained by the court.
- Curriculum will be inter-related to Core Training as the elements of Pre-Service Training will be extracted from the Core Training.
- Pre-Service Training on DVD will be available beginning in 2011 and shall be required once available.

*GALs and Parent Advocates shall participate in **Core Training**:*

- In order to ensure that all children and parents in the child dependency system have the highest quality representation, Core Training shall be completed by every GAL and Parent Advocate, regardless of length of time serving in that position or completion of previous training, within the next two years.
- Core Training would serve as Pre-Service Training for any attorney wishing to be a GAL or parent advocate if completed prior to their first appointment.
- If Pre-Service Training on DVD is completed, Core Training shall be completed within one year of that date.
- As the strongest commitment to high quality legal representatives, completion of Core Training shall be mandatory. While exploring that possibility, Core Training shall be strongly encouraged with judicial leadership as the court considers which attorneys it appoints to represent children and parents.
- Core Training shall be in-person training offered regionally throughout Pennsylvania to ease any barriers to participation in training. The training as envisioned will be one and one-half days in length.
- Funding options are being explored through the partnership between the Office of Children and Families in the Courts and the Office of Children, Youth and Families. Within the parameters of the Needs Based Plan & Budget process for 2011/2012, county agencies can request funding for transportation and lodging related to GAL training.
- Low cost Continuing Legal Education credits shall be available as approved by the CLE Board.
- A certificate of completion will be issued to all participants and as a best practice these shall be provided to a designee of the judge and/or agency.
- Training objectives and curriculum will be multi-disciplinary and incorporate information that is relevant to both the practice and understanding of the clients served by the GALs and parent advocates. Additionally training will incorporate the Mission & Guiding Principles for Pennsylvania's Dependency System as well as themes and best practices as referenced in the Judicial Bench Book. Portions of the training will be recorded to assure quality and consistency throughout the state and to be used in Pre-Service Training.
- Training is anticipated to commence in 2011. It is expected that training sessions will be offered several times during the period of 2011 and 2012. After the majority of GALs and parent advocates are trained, it is anticipated that training needs will decrease to yearly sessions.
- A resource manual will be developed and provided to all training participants. The resource manual will supplement the material presented in the training and will be useful as a reference manual for practice.

In addition to these recommendations, the Legal Representation Workgroup respectfully requests authorization to:

- Continue meeting to address issues of curriculum development, roll-out, monitoring and evaluation of training.
- Commence a pilot Core Training in 2011 for GALs and parent advocates.
- Evaluate the training and provide a report to the State Roundtable in 2011.
- Develop a pre and post test to be administered to training participants to aid in the evaluation process of the training.
- Explore ways to make training required for all GALs and parent advocates.
- Explore the impact of training requirements on court appointed pro-bono attorneys and develop training recommendations specific to their involvement in child dependency cases.

Respectfully submitted to the Pennsylvania State Roundtable by the Legal Representation Workgroup, May 2010

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For additional copies of this report please contact:

**Office of Children & Families in the Courts
Administrative Office of Pennsylvania Courts
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 1500
PO Box 61260
Harrisburg, PA 17106-1260
(717) 231-3300
www.ocfcpcourts.us**