

NEW JERSEY	Legal Authority
	<p data-bbox="606 220 1850 248" style="text-align: center;"><b>GENERAL DUTIES AND ACTIVITIES OF THE CHILD’S LEGAL REPRESENTATIVE</b></p> <p data-bbox="128 256 464 727"><b>1. General Duties:</b> <i>Timely appointment, mandatory or discretionary, attorney or lay person, represent child’s interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</i></p> <p data-bbox="491 256 1965 618">- In all matters the parties shall have the right to be represented by counsel. In family matters the court shall advise the juvenile and the juvenile's parents, guardian, or custodian of their right to retain counsel and, if counsel is not otherwise provided for the family and if the matter may result in the institutional commitment or other consequence of magnitude to any family member, or if any family member is constitutionally or by law entitled to counsel, the court shall refer the family member to the Office of the Public Defender, if appropriate, or assign other counsel to represent the juvenile or family member. The court may, depending upon the financial circumstances of the parents, guardian or custodian, order them to pay the fee of assigned counsel in such amount as it fixes. The court shall also assign counsel to represent indigents in family actions where a party is by constitution, state or federal, or by law entitled to counsel and there is no publicly-funded source of representation available, except in child support enforcement hearings. <a href="#">N.J. Court Rules, R. 3-4.</a></p> <p data-bbox="491 654 1955 760">- "Law guardian" means an attorney admitted to the practice of law in this State, regularly employed by the Office of the Public Defender or appointed by the court, and designated under this act to represent minors in alleged cases of child abuse or neglect and in termination of parental rights proceedings. <a href="#">N.J. Stat. § 9:6-8.21(1)(d).</a></p> <p data-bbox="491 795 1965 901">- a. Any minor who is the subject of a child abuse or neglect proceeding under this act must be represented by a law guardian to help protect his interests and to help him express his wishes to the court. However, nothing in this act shall be construed to preclude any other interested person or agency from appearing by counsel.</p> <p data-bbox="491 937 1850 1011">b. The Superior Court, Chancery Division, Family Part, on its own motion, will make appointments of law guardians. <a href="#">N.J. Stat. §9:6-8.23.</a></p> <p data-bbox="491 1047 1948 1149">- A child who is the subject of an application for the termination of parental rights pursuant to section 15 of P.L.1951, c.138 (<a href="#">N.J. Stat. §30:4C-15</a>) shall be represented by a law guardian as defined in section 1 of P.L.1974, c.119 (<a href="#">N.J. Stat. §9:6-8.21</a>).</p> <p data-bbox="491 1190 1948 1333">If the child was represented by a law guardian in a child abuse and neglect action filed pursuant to chapter 6 of Title 9 of the Revised Statutes, the same law guardian, to the extent practicable, shall continue to represent the child in the termination of parental rights action, unless that law guardian seeks to be relieved by the court upon application for substitution of counsel or other just cause. <a href="#">N.J. Stat. §30:4C-15.4(b).</a></p> <p data-bbox="491 1373 1965 1442">-The attorney-client privilege applies to communications between the law guardian and the represented child. <a href="#">In re Maraziti, 233 N.J. Super. 488 (App.Div. 1989).</a></p>

	<p>- The Office of the Public Defender is authorized to provide representation to children and indigent parents in termination of parental rights proceedings under <a href="#">Title 30 of the Revised Statutes</a> pursuant to the provisions of this section.</p> <p>... <a href="#">N.J. Stat. §30:4C-15.4(c)</a>.</p>
<p><b>2. Out of Court - Actions to be Taken:</b> <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</i></p>	<p>- One important right a child has is the right to have an attorney, known as a law guardian, represent the child in court, present the child's wishes to the judge and protect the child's legal interests throughout the legal proceeding. A law guardian maintains a traditional lawyer-client relationship with the child to the extent possible. <i>See</i> <a href="http://www.state.nj.us/defender/div_lawguardian.shtml">http://www.state.nj.us/defender/div_lawguardian.shtml</a></p>
<p><b>3. In Court - Active Participation in Hearings:</b> <i>Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</i></p>	<p>- In child abuse or neglect cases, law guardians are obliged to make the wishes of their clients known, to make recommendations as to how a child client's desires may best be accomplished, to express any concerns regarding the child's safety or well-being and in a proper case to suggest the appointment of a guardian ad litem. <i>DYFS v. Robert M.</i>, 347 N.J.Super. 44 (App.Div. 2002).</p> <p>- A court-appointed counsel's services are to the child. Counsel acts as an independent legal advocate for the best interests of the child and takes an active part in the hearing, ranging from subpoenaing and cross-examining witnesses to appealing the decision, if warranted. If the purpose of the appointment is for legal advocacy, then counsel would be appointed.</p> <p>A court-appointed guardian ad litem's services are to the court on behalf of the child. The GAL acts as an independent fact finder, investigator and evaluator as to what furthers the best interests of the child. The GAL submits a written report to the court and is available to testify. If the purpose of the appointment is for independent investigation and fact finding, then a GAL would be appointed. The GAL can be an attorney, a social worker, a mental health professional or other appropriate person. If the primary function of the GAL is to act in the capacity of an expert, then the court should ordinarily appoint a GAL from the appropriate area of expertise. Attorneys acting on behalf of children in abuse or neglect cases and in termination of parental rights cases should act as counsel for the child pursuant to Rule 5:8A rather than in the capacity of a GAL pursuant to Rule 5:8B. <i>See, Matter</i> <a href="#">Matter</a></p>

	<p><a href="#">of M.R., 135 N.J. 155, 174, 638 A.2d 1274, 1283 (1994)). N.J. Stat. § 5:8B, Official Comment.</a></p> <p>The law guardian may seek an adjournment of a trial or dispositional hearing, <a href="#">N.J. Stat. § 9:6-8.48</a>, and may move to set aside, stay, or vacate any court order. <a href="#">N.J. Stat. § 9:6-8.59</a>.</p>
4. <b>Post-Hearing:</b> Review courts order, communicate order to child, and monitor implementation of orders.	No explicit legal authority or requirement..
5. <b>Appellate Advocacy:</b> Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.	<p>The Office of the Law Guardian has a separate appellate unit (OLGA) responsible for handling appellate matters. Currently, OLGA has seven appellate attorneys representing the interests and wishes of minor clients before both the Appellate Division and the New Jersey Supreme Court. See <a href="http://www.state.nj.us/defender/div_lawguardian.shtml">http://www.state.nj.us/defender/div_lawguardian.shtml</a></p>
6. <b>Cessation of Representation:</b> Contacts post representation, if any.	No explicit legal authority or requirement.
	<b>Organizational and Administrative Supports for the Child Representative</b>
7. <b>General Representation Rules:</b> Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court	<p>- The Office of Law Guardian (OLG), a unit within the Office of the Public Defender, provides legal representation to children in family court matters involving allegations of abuse and neglect against parents or other caregivers, or in cases involving termination of parental rights. See <a href="http://www.state.nj.us/defender/div_lawguardian.shtml">http://www.state.nj.us/defender/div_lawguardian.shtml</a></p> <p>- In all matters the parties shall have the right to be represented by counsel. In family matters the court shall advise the juvenile and the juvenile's parents, guardian, or custodian of their right to retain counsel and, if counsel is not otherwise provided for the family and if the matter may result in the institutional commitment or other consequence of magnitude to any family member, or if any family member is constitutionally or by law entitled to counsel, the court shall refer the family member to the Office of the Public Defender, if appropriate, or assign other counsel to represent the juvenile or family member. The court may, depending upon the financial circumstances of the parents, guardian or custodian, order them to pay the fee of assigned counsel in such amount as it fixes. The court shall also assign counsel to represent indigents in family actions where a party is by constitution, state or federal, or by law entitled to counsel and there is no publicly-funded source of representation available, except in child</p>

	<p>support enforcement hearings. <a href="#">N.J. Court Rules, R. 3-4.</a></p> <p>- The Office of the Public Defender is authorized to provide representation to children and indigent parents in termination of parental rights proceedings under <a href="#">Title 30 of the Revised Statutes</a> pursuant to the provisions of this section.</p> <p>(1) In selecting attorneys to serve as law guardians or counsel for indigent parents, the Office of the Public Defender shall take into consideration the nature, complexity and other characteristics of the cases, the services to be performed, the status of the matters, the attorney's pertinent trial and other legal experience and other relevant factors. The Office of the Public Defender also shall take into consideration an attorney's willingness to make a commitment to represent a child or parent, as applicable, in any actions taken under Titles 9 and 30 of the Revised Statutes related to child abuse and neglect and termination of parental rights.</p> <p>(3) The Office of the Public Defender shall provide for an internal administrative unit with the responsibility to supervise, evaluate and select non-staff counsel who will represent indigent parents independently from the Law Guardian Program staff in the Office of the Public Defender. All decisions of the Office of the Public Defender concerning the representation of indigent parents in particular cases shall be made by staff who have no actual involvement with the day-to-day legal representation being provided by the Law Guardian Program in the Office of the Public Defender.</p> <p>Nothing in this paragraph shall be construed to limit the powers of the Public Defender pursuant to section 7 of P.L.1967, c.43 ( <a href="#">N.J. Stat. §2A:158A-7</a>). <a href="#">N.J. Stat. §30:4C-15.4(c).</a></p>
<p><b>8. Lawyer Training:</b> <i>Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.</i></p>	<p>-</p> <p>(2) The Office of the Public Defender shall ensure that an attorney selected pursuant to this section has received training in representing clients in child abuse and neglect and termination of parental rights actions from the Office of the Public Defender or will receive such equivalent training, as soon as practicable, from other sources. <a href="#">N.J. Stat. §30:4C-15.4(c).</a></p>
<p><b>9. Lawyer Compensation:</b> <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p><i>-In New Jersey, most lawyers who represent children in dependency cases – known as “law guardians” – are salaried employees of the Office of the Public Defender.</i></p>

10. <b>Caseload Levels:</b> Caseloads are of a manageable size.	No explicit legal authority or requirement.