

OREGON	Legal Authority
	GENERAL DUTIES AND ACTIVITIES OF THE CHILD'S LEGAL REPRESENTATIVE
<p>1. General Duties: <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>- Appointment of counsel for child or ward; access of appointed counsel to records of child or ward. (1) If the child, ward, parent or guardian requests counsel for the child or ward but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court may appoint suitable counsel to represent the child or ward at state expense if the child or ward is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission. Whenever requested to do so, the court shall appoint counsel to represent the child or ward in a case filed pursuant to ORS 419B.100. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.</p> <p>(2) Upon presentation of the order of appointment under this section by the attorney for the child or ward, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney to inspect and copy any records of the child or ward involved in the case, without the consent of the child or ward or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging. OR. REV. STAT. § 419B.195.</p> <p>- Appointment; duties; immunity; access to information; CASA Fund; rules. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings, and in the furtherance thereof, may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is represented by counsel, counsel shall be paid from funds available to the Court Appointed Special Advocate Volunteer Program. No funds from the Public Defense Services Account or Judicial Department operating funds may be used for this purpose.</p> <p>(2) Subject to the direction of the court, the duties of the court appointed special advocate are to:</p> <ul style="list-style-type: none"> (a) Investigate all relevant information about the case; (b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court; (c) Facilitate and negotiate to ensure that the court, Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and (d) Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order.

	<p>(3) If a juvenile court does not have available to it a CASA Volunteer Program, or a sufficient number of qualified CASA volunteers, the court may, in fulfillment of the requirements of this section, appoint a juvenile department employee or other suitable person to represent the child or ward's interest in court pursuant to ORS 419A.012 or 419B.19. OR. REV. STAT. § 419A.170.</p>
<p>2. Out of Court - Actions to be Taken: <i>Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</i></p>	<p>- A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, training, experience, thoroughness, and preparation reasonably necessary for the representation. A lawyer should only accept an appointment or retainer if the lawyer is able to provide quality representation and diligent advocacy to the client. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 1.1.¹</p> <p>- Except as provided by the Oregon Rule of Professional Conduct 1.2(b) and (c), a lawyer shall abide by a client's decisions concerning the objections of representation in accordance with ORPC 1.2 and shall consult with the client as to the means by which they are to be pursued in accordance with ORPC 1.4. When representing a client with diminished capacity, the lawyer shall, as far as reasonably possible, maintain a normal attorney-client relationship with the client. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 1.3.</p> <p>- 1. A lawyer is ordinarily bound by the client's definition of his or her interests and should not substitute the lawyer's judgment for that of the client regarding the objectives of the representation.</p> <p>2. A lawyer should render candid advice to the client regarding the probable success and consequences of adopting any posture in the proceedings and give the client the information necessary to make an informed decision. A lawyer should consult with the client regarding the assertion or waiver of any right or position of the client.</p> <p>3. A lawyer should consult with the client on the strategy and means by which the client's objectives are to be pursued and exercise the lawyer's professional judgment concerning technical and legal tactical issues involved in the representation. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 1.3 (Implementation).</p>

¹ A lawyer appointed by a court to represent a client at government expense shall meet and certify compliance with the "Qualification Standards for Court-Appointed Counsel to Represent Indigent Persons at State Expense," promulgated by the Public Defense Services Commission. These are a comprehensive collection of practice requirements, covering everything from investigation, trial work, and the attorney-client relationship and apply to all court-appointed counsel in all matters before the Oregon courts. Specific standards relating to the representation of children in dependency cases are included here, but the reader is referred to the complete Standards for additional applicable standards.

- 1. When representing parents who have not had a guardian ad litem appointed, and children capable of considered judgment, decisions that are ultimately the client's to make include whether to:
 - a. admit the allegations of the petition;
 - b. agree to jurisdiction, wardship, and temporary commitment to DHS-CW;
 - c. accept a conditional postponement; or
 - d. agree to specific services or placements.
2. A lawyer should advise the client concerning the probable success and consequences of adopting any posture in the proceedings. It is the duty of a lawyer to give the client the information necessary to make an informed decision, including advice and guidance, but to not overbear the will of the client. A lawyer may not advocate a position contrary to the client's expressed position unless directed to do so by the client's guardian ad litem.
3. When representing parents who have not had a guardian ad litem appointed, and children capable of considered judgment, a lawyer is bound by and should advocate for the client's definition of his or her interests, and may not substitute counsel's judgment for the client's, nor ignore the client's wishes because they are perceived not to be in the best interests of the child.
4. In determining whether a child is capable of considered judgment, a lawyer should consider:
 - a. the child's chronological and intellectual age and assume that and
 - b. average and normal child of seven is presumably capable of considered judgment.
 - c. the child's developmental stage;
 - d. the child's sophistication and experience;
 - e. whether the child is articulating a position concerning the issues of the case; and
 - f. the presence of undue influence.
5. Whether a child is capable of considered judgment and able to contribute to a determination of his or her position in the case depends on the context and circumstances at the time the position must be determined. A child may be able to determine some positions in the case but not others.
6. When a child has been injured or suffers from a disability or congenital condition that results in the child having a progressive illness that will be fatal and is in an advanced stage, being in a coma, persistent vegetative state, or suffering brain death, the lawyer for the child should consult with the parent if appropriate and consider seeking appointment of a guardian ad litem under the juvenile and probate code in a consolidated case with the authority to consent to medical care, including the provision or withdrawal of life sustaining medical treatment, and the execution of an advanced health directive pursuant to [ORS 127.505 et seq.](#)
7. If a child client is not capable of considered judgment, a lawyer should inquire thoroughly into all circumstances

that a careful and competent person in the child's position should consider in determining the child's best interests with respect to the proceeding. After consultation with the child, the parents through their counsel if any (not appear to conflict), the caseworker, the CASA, or foster parent and any other family members or interested persons, such as the child's therapist, a lawyer shall advocate what the lawyer determines to be the best interests of the child.

8. When there is a conflict between what the lawyer has determined would be in the best interests of a child who is not capable of considered judgment, and the child's stated desires, the lawyer must to the greatest extent possible resolve the conflict by working with the young client, although this sensitive issue cannot always be avoided or completely resolved. If unable to resolve the conflict, the lawyer should communicate the child's wishes to the court but advocate for what the lawyer determines to be the best interests of the child.

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10. If a lawyer serves as a guardian ad litem, the lawyer should be aware of the distinct fiduciary duties, obligations, and powers of a guardian ad litem and how those differ from the ethical duties, obligations and powers of the lawyer in an attorney-client relationship.

12. Unless inconsistent with the client's interests, a lawyer should cooperate with other parties to the case.

[General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.4 \(Implementation\).](#)

- 1. A lawyer should comply with [ORPC 1.3 and 1.4](#) and Standard 1.2, Implementations 1, 2, and 3, and Standard 1.3, *supra*, and, in addition, on being retained or appointed, a lawyer should make an initial contact with the client or the client's caretaker within 24 hours and, when appropriate, conduct an initial interview within 72 hours. At the initial interview, a lawyer should explain to the client in age-appropriate language:
- a. juvenile court and DHS-CW procedures;
 - b. the client's rights;
 - c. the role and responsibilities of the lawyer;
 - d. the role of each player in the system;
 - e. alternatives and options available to the client, including referrals to available resources in the community to resolve domestic relations issues;
 - f. the consequences of applicable timelines;
 - g. the consequences of aggravated circumstances or extreme conduct pleaded in the petition and the consequences of selecting one option over another in light of applicable planning timelines, including the impact of the timelines established by the ASFA;

- h. the impact of the concurrent case planning required under the AFSA on the case and the client's participation in such planning;
- i. the consequences of failing to appear in particular proceedings;
- j. rights under the Indian Child Welfare Act, if applicable; and
- k. rights under the Refugee Children's Act, if applicable.

2. A lawyer should give the client time to ask questions and consider the alternatives. A lawyer should obtain information from the client about:

- a. the client's prior contacts with DHS-CW;
- b. the client's knowledge about the allegations of the petition;
- c. the accuracy of information provided by the state supporting the petition;
- d. alternative or additional allegations that should be added to the petition;
- e. services provided before removal or intervention;
- f. reasons for removal or intervention;
- g. services the client feels would have avoided the need for removal;
- h. alternatives to removal, including relative placements, in-home services, or removal of the perpetrator;
- i. current efforts to reunify the family;
- j. family history, including paternity issues, if any, and identity of prior caretakers of the child;
- k. services needed by the child, parents, or guardians;
- l. the client's concerns about placement;
- m. the client's long- and short-term goals;
- n. current visitation and the client's desires concerning visitation;
- o. whether the client wishes to attend the hearing and, if the client is a child, whether the client wishes to address the court outside the presence of the other parties;
- p. the applicability of the Indian Child Welfare Act, the Refugee Children's Act, and relevant other cultural, religious, social, and sexual preference issues; and
- q. any other relevant information.

3. A lawyer representing a child should gather information from the child and the child's caretakers, caseworker, and therapist, if any, to assist in determining whether the child is capable of considered judgment.

4. All child clients should, at a minimum, be personally contacted by a lawyer and/or lawyer's trained and qualified staff to determine the client's wishes, if possible, and to assess the client's well-being. It is important for a lawyer or lawyer's staff to observe the child, the child's interactions with others in the home or foster home, and to assess the severity of the injuries and the child's general health and condition. Children four years of age or old enough to communicate should be personally interviewed in private by a lawyer. If possible, a lawyer

should interview child clients in a setting outside of the court.

5. A lawyer should have contact with clients:

- a. before court hearings and CRB reviews;
- b. in response to contact by the client;
- c. when a significant change of circumstances must be discussed with the client;
- d. whenever notified that the child's placement is changed; or
- e. when a lawyer is apprised of emergencies or significant events impacting the child.

6. For younger children, a lawyer, personally or the lawyer's staff, is encouraged to have regular face-to-face contact with the client in the child's home or foster home every three months or as needed. Older children could be contacted by phone if not in person, in their homes, at school, or at the lawyer's office with a similar frequency.

7. A lawyer should confer with the client as often as necessary after the initial interview to ascertain all relevant facts and otherwise necessary information. After a lawyer is fully informed on the facts and the law, the lawyer should advise the client concerning all aspects of the case. [General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.6 \(Implementation\).](#)

- A lawyer should conduct a thorough, continuing, and independent review and investigation of the case, including obtaining information, research, and discovery in order to prepare the case for trial. A lawyer should not rely solely on the report of the DHS-CW caseworker as the investigation of the facts and circumstances underlying the case. [General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.7.](#)

- 1. A lawyer should, when appropriate, conduct an in-depth interview with the client covering:

- a. the events giving rise to the allegations in the petition;
- b. the existence of witnesses or other potential sources of information; and
- c. information about the child's current placement, condition, and needs.

2. A lawyer should be familiar with and, when appropriate, obtain the assistance of, local juvenile and mental health experts who can provide the lawyer with consultation, evaluation of the client or other parties, including parent-child interaction assessments, and testimony on issues in the case.

3. A lawyer should have potential witnesses, including adverse witnesses interviewed and, when appropriate, subpoenaed by an investigator or other appropriately trained person. If a lawyer conducts a witness interview,

the lawyer should do so in the presence of a third person who can be available to appear as a witness at trial. Potential witnesses may include:

- a. school personnel;
- b. neighbors;
- c. relatives;
- d. caseworkers;
- e. foster parents and other caretakers;
- f. mental health professionals;
- g. physicians; and
- h. law enforcement personnel.

4. When possible, a lawyer should interview the client in the client's home. When appropriate, a lawyer or lawyer's trained and qualified staff should observe visitations between parent and child.
5. When necessary, a lawyer should conduct or participate in depositions of witnesses.
6. A lawyer should obtain information from representatives of other agencies with whom the family has been involved, either through DHS-CW referral or on the family's own initiative, such as:
 - a. community health nurses;
 - b. school personnel;
 - c. homemaker services;
 - d. family counselors;
 - e. parenting instructors;
 - f. drug or alcohol counselors;
 - g. neighbors;
 - h. ministers, priests, church members, etc.;
 - i. baby-sitters;
 - j. other persons who have had significant contact with the child or family and may have relevant information; k. the child's Indian tribe, if applicable; and
 - k. the consulate of client's country of citizenship, if applicable.
7. A lawyer should comply with discovery statutes and use the same to obtain names and addresses of witnesses, witness statements, results of evaluations, or other information relevant to the case. A lawyer should obtain and examine all available discovery and other relevant information, including:
 - a. the petition and juvenile court legal and social files;

- b. information that is obtained through requests for discovery;
- c. information from the DHS-CW caseworker and from reviewing agency records for information about:
 - (1) services provided by the agency in the past;
 - (2) visitation arrangements;
 - (3) the plan for reunification; and
 - (4) current and planned services.

8. A lawyer should obtain records concerning the family from other relevant sources, such as:

- a. schools;
- b. hospitals and other medical records sources;
- c. law enforcement agencies;
- d. treatment agencies, including mental health and drug and alcohol treatment agencies; and
- e. psychiatrists, psychologists, therapists, and counselors.

9. When the client's participation in a psychiatric, medical or other diagnostic treatment program is significant in obtaining the client's desired result, a lawyer should so advise client.

10. A lawyer should research and review relevant statutes and case law to identify defenses and legal arguments to support the client's case.

11. A lawyer should investigate and consider whether the case is or should be consolidated with any other case.

[General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.7 \(Implementation\).](#)

- A lawyer should research, prepare, file, and argue appropriate pretrial motions or responses with the court whenever there is reason to believe the client is entitled to relief. A lawyer should file briefs or memoranda in support of such motions or responses. [General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.8.](#)

- 1. A lawyer should make appropriate pretrial motions, including:

- a. discovery motions;
- b. motions for medical, psychological, or psychiatric evaluation, parent-child interaction, developmental, or neurological assessment;
- c. motions challenging the constitutionality of statutes and practices;
- d. motions to strike, dismiss, or amend the petition;
- e. motions for transfer; and

	<p>f. evidentiary motions and motions in limine.</p> <p>2. A lawyer should seek protective orders, make motions for additional shelter hearings, make appropriate motions in limine, and make other evidentiary motions.</p> <p>3. A lawyer should make motions to meet the client's needs pending trial, including but not limited to:</p> <ul style="list-style-type: none"> a. restraining orders; b. orders for family reunification services; c. orders for medical or mental health treatment; d. orders for change of placement; e. motions to increase, decrease, or limit parental or sibling visitation; f. motions seeking child support or waiver of obligation to pay child support; g. motions seeking contempt for violations of court orders; h. if client is indigent, motions for payment of expert witnesses; and i. orders to establish or challenge paternity pursuant to ORS chapter 419B. <u>General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.8 (Implementation).</u> <p>- A lawyer should participate in settlement negotiations to seek expeditious resolution of the case and to obtain petition and disposition terms favorable to the client. In appropriate cases, a lawyer should request a judicial settlement conference. <u>General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.9.</u></p>
<p>3. In Court - Active Participation in Hearings: <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>- When a child has been removed from the parent's home and placed in shelter care, a lawyer should advocate for the placement order and other temporary orders the client desires, unless the client is a child incapable of considered judgment, in which case a lawyer should advocate for the placement order and other temporary orders that are in the best interests of the child. <u>General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.5.</u></p> <p>- A lawyer should be prepared to provide quality representation and advocacy for the client. <u>General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.10.</u></p> <p>- 1. In most circumstances, a lawyer should have the client present at significant court hearings and reviews and should especially advise the client of all mandatory appearances and the consequences of failing to appear at</p>

hearings.

a. If a child is not capable of considered judgment, in determining whether to have a child present at a hearing or review, a lawyer should, after consultation with child's therapist, if any, carefully consider the impact of the hearing on the child.

b. A decision to exclude a young child from a hearing or review is appropriate if the child does not want to attend, is too young to sit through the hearing, would be significantly traumatized by such attendance, or for other good reasons. The lawyer should consider whether concerns about the child being exposed to some of the testimony can be addressed by having the child temporarily excluded from the courtroom during such testimony.

2. If the child is capable of considered judgment, a lawyer is bound by the client's decision concerning testifying or attendance at hearings.

3. A lawyer should avoid unnecessarily requiring young children to testify in dependency adjudication, review, or termination-of-parental-rights hearings. In determining whether to have the child testify, the child's lawyer should consult with the child's therapist, if any.

a. In determining whether to have the child testify, the child's lawyer should consider:

- (1) the child's need or desire to testify;
- (2) any likely repercussions of testifying;
- (3) whether the child is likely to be found competent to testify;
- (4) the necessity for the child's direct testimony;
- (5) the availability of other evidence that may substitute for the child's testimony; and
- (6) the child's developmental ability to testify and withstand cross-examination.

b. If the child's lawyer determines that it is necessary to have the child testify, a lawyer should consider, and agree, to steps to reduce potential harm to the child caused by testifying, such as arranging for the child's testimony to be taken in chambers

4. A lawyer should be familiar with current law and empirical knowledge about children's competency, memory, and suggestibility as they relate to the child's competence to testify or the reliability of testimony or out-of-court statements.

5. A lawyer for the child should prepare the child to testify including:

a. familiarizing the child with the courtroom and court procedures;

- b. advising the child what to expect during direct and cross-examination;
- c. ensuring that testifying will cause minimum harm to the child by:
 - (1) seeking modification in the location of the testimony;
 - (2) limiting who will be present;
 - (3) restricting the manner and phrasing of questions posed to the child; and
 - (4) objecting to questions to the child that are not phrased in a syntactically and linguistically appropriate manner.

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7. At the hearing, a lawyer should be fully prepared by:

- a. having all relevant materials available at the trial, including all pleadings, discovery, and investigative reports, as well as, relevant statutes, case law, and the evidence code;
- b. having marshaled facts and legal arguments to prove or disprove the allegations of the petition, ensuring that there is factual support for each service element being sought.
- c. having a draft or outline of:
 - (1) opening and closing statements;
 - (2) direct and cross-examination plans for all witnesses;
 - (3) amendments to the petition to be requested to conform the petition to the findings; and
 - (4) findings of fact and conclusions of law to be requested at the conclusion of the hearing.

8. A lawyer should make appropriate motions, present and cross examine witnesses, offer exhibits, and provide independent evidence as necessary. During all hearings, a lawyer should preserve legal issues for appeal, as appropriate.

9. A lawyer should ensure that the client is informed of and understands the nature, obligations, and consequences of the decision, and the need for the client to cooperate with the trial court's orders. A lawyer should also explain the client's rights and possibilities of posttrial motions to reconsider, set aside, modify, or review the jurisdictional finding, as well as the right to appeal. A lawyer should explain the consequences of violating the trial court's order and the continuing jurisdiction of the court.

10. After the jurisdictional hearing or trial, the lawyer should

- a. carefully review the judgment and advise the client about potential issues for appeal;
- b. advise the client in writing of the timelines for filing a notice of appeal and the lawyer's ability to represent the client on appeal; and,

	<p>c. assist the client in locating an attorney to handle the appeal if the lawyer is unable to undertake such representation and take whatever steps are necessary to preserve the client's right to appeal the judgment. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.10 (Implementation).</p> <p>- At permanency hearings, the court determines what the permanent plan for the child should be, including return to parent, adoption, guardianship, or other planned permanent living arrangements. A lawyer should take particular care in preparing for a permanency hearing and ensure that the lawyer is well acquainted with the case history and case files. The lawyer should be prepared present favorable evidence and zealously advocate the client's position about the permanent plan. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.14.</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders.</p>	<p>- 1. A lawyer should counsel the client and file any postdisposition motion or appeal that is needed.</p> <p>2. A lawyer should review the court's order to insure that it conforms to the findings and disposition.</p> <p>3. A lawyer should file, litigate, or respond to any motions to reconsider, set aside, or modify the jurisdictional finding or disposition, as well as any appeals of referees' orders. A lawyer should, as directed by the client, also file notice of appeal and either provide representation on appeal or assist the client in referral to other appellate counsel. A lawyer should participate in an appeal filed by another party or assist the client in referral to other appellate counsel. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.12 (Implementation).</p> <p>- A lawyer's role is critical at review hearings and CRB review because at the hearing the court or CRB panel reviews the child's conditions and circumstances, evaluates the parties' progress toward achieving the case plan, assesses the adequacy of the services offered to the family, and considers whether jurisdiction should continue. A lawyer should be fully prepared to represent the client at all reviews and CRB reviews. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.13.</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by</p>	<p>- Who may appeal; time limitations; procedure; effect of filing appeal; record on appeal; disclosure. (1) Except as provided in ORS 419A.190, any person or entity, including, but not limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose rights or duties are adversely affected by a judgment of the juvenile court may appeal therefrom. An appeal from a circuit court must be taken to the Court of Appeals,</p>

<i>appeal.</i>	<p>and an appeal from a county court must be taken to the circuit court.</p> <p>(4) The counsel in the proceeding from which the appeal is being taken shall file and serve those documents necessary to commence an appeal if the counsel is requested to do so by the party the counsel represents. If the party requesting an appeal is represented by court-appointed counsel, court-appointed counsel may discharge the duty to commence an appeal under this subsection by complying with policies and procedures established by the office of public defense services for appeals of juvenile court judgments. OR. REV. STAT. § 419A.205.</p>
6. Cessation of Representation: <i>Contacts post representation, if any.</i>	<p>- A lawyer's responsibility to the client does not end with dismissal of the petition or entry of a final dispositional order. A lawyer should be prepared to counsel the client and provide or assist the client to secure appropriate legal services in matters arising from the original proceeding. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.12.</p>
	Organizational and Administrative Supports for the Child Representative
7. General Representation Rules: <i>Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court</i>	<p>Whenever requested to do so, the court shall appoint counsel to represent the child or ward in a case filed pursuant to ORS 419B.100. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission... OR. REV. STAT. § 419B.195.</p>
8. Lawyer Training: <i>Child representative trained, on-going training provided, new attorneys provided senior</i>	<p>- 4. A lawyer appointed by a court to represent a client at government expense shall meet and certify compliance with the "Qualification Standards for Court-Appointed Counsel to Represent Indigent Persons at State Expense," promulgated by the Public Defense Services Commission. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 1.1 (Implementation).</p>

lawyer mentorship.

- 1. Every dependency case is different, and varied approaches may be required in the legal representation of a child or parent. Effective legal practice in dependency cases requires a wide variety of skills unique to this practice.
- 2. In addition to meeting the requirements for experience and training contained in Standard 1.1, *supra*, a lawyer for children, parents, or guardians in dependency cases should:
 - a. meet the requirements of the *Qualification Standards for Court-Appointed Counsel to Represent Indigent Persons at State Expense*, Oregon Judicial Department (1990), Standard 3.1 G.;
 - b. for all cases, have knowledge of juvenile justice statutes, relevant rules, case law, standards, and procedures; have observed at least one contested juvenile court case; be generally familiar with services available to children and parents in the juvenile system; and have reviewed and is familiar with the materials listed below:
 - (1) Oregon Revised Statutes [chapters 419A](#), [419B](#), and [419C](#), Oregon Juvenile Code.
 - (2) Oregon Revised Statutes [chapter 417](#), Interstate Compact on Juveniles and the Community Juvenile Services Act.
 - (3) Oregon Revised Statutes [chapter 418](#), Child Welfare Services.
 - (4) Oregon Revised Statutes [chapter 420](#), Youth Correction Facilities; Youth Care Centers; and chapter 420A, Oregon Youth Authority; Youth correction Facilities; and applicable Oregon Administrative Rules.
 - (5) JUVENILE LAW (Oregon CLE 1995 & Supp 2000).
 - (6) Public Law No. 105-89, Adoption and Safe Families Act of 1997.
 - (7) Public Law No. 95-608, Indian Child Welfare Act of 1978, 25 USC §§1901–1963 (1982), and the Refugee Child Act, ORS 418.925–418.945.
 - (8) Public Law No. 105-17, Individuals with Disabilities Education Act.
 - (9) Public Law No. 93-112, Title V, §504, Rehabilitation Act of 1973, as amended, 29 USC §794 (1982).
 - (10) Article 1, Sections 42 and 43 of the Oregon Constitution and statutory provisions regarding the rights of victims.
 - c. be familiar with:
 - (1) the causes and available treatment for child abuse and neglect;
 - (2) the child welfare and family preservation services available through Department of Human Services–Child Welfare (formerly State Offices for Services to Children and Families (SOSCF) referred to hereinafter as DHS-CW) and available in the community and the problems they are designed to address; and

(3) the basic structure and functioning of DHS-CW and the juvenile court, including court procedures, the functioning of the citizen review board (hereinafter referred to as CRB) and court-appointed special advocates (hereinafter referred to as CASA) programs.

3. A lawyer new to dependency cases is encouraged to work with a mentor for the first three months and at a minimum should observe or co-counsel each type of dependency hearing from shelter care through review of permanent plan before accepting appointments.
4. In termination-of-parental-rights cases, a lawyer for children or parents must meet the standards for dependency cases and have handled dependency cases for a minimum of six months as a full-time juvenile defender or must have handled at least 25 juvenile dependency cases that have gone past the jurisdictional phase.
5. A lawyer should develop a basic knowledge of child development and adequate communication skills to communicate with child clients and witnesses.
 - a. Interviewing techniques should be age-appropriate and conducted in private, confidential, and age-appropriate settings.
 - b. Communicating with a child client, especially with regard to legal matters, may require efforts beyond those normally required for effective communications with adult clients. A lawyer for children should therefore be especially sensitive to the child's stage of development, including:
 - (1) cognitive, emotional, and social growth stages;
 - (2) level of education;
 - (3) cultural context; and
 - (4) degree of language acquisition.
 - c. As with any client, a lawyer may advise the child client about his or her position in the case, but a lawyer should recognize that the child client may be more susceptible to intimidation and manipulation, and should ensure that the client's ultimate decision actually reflects the client's actual desires.
6. A lawyer for children, parents, or guardians in dependency cases should also visit at least two of the following:
 - a. a shelter home or facility;
 - b. a foster home;
 - c. a group home;
 - d. a residential treatment facility;
 - e. the Oregon State Hospital Child or Adolescent Psychiatric Ward; or
 - f. an outpatient treatment facility for children.

7. All lawyers representing children, parents, or guardians in dependency cases should average at least 15 hours of continuing legal education (CLE) each year, at least 8 hours of which should relate to the practice of juvenile law.
- a. A lawyer is encouraged to seek training in the subject areas listed in Implementation 2, 3, 4, 5, and 6, *supra*.
 - b. A lawyer is also encouraged to seek training in the following areas:
 - (1) child abuse reporting;
 - (2) substance abuse and resources for substance abusing families;
 - (3) cultural and ethnic differences as they relate to child-rearing;
 - (4) government benefits available in dependency cases, such as Social Security payments including non-needy relative grants, AFDC, and AFDC-FC, adoption assistance programs, and crime victims programs;
 - (5) transition plans and independent living programs;
 - (6) emancipation laws and programs;
 - (7) family preservation services;
 - (8) resources for the diagnosis and treatment of sexual abuse, physical abuse, and emotional abuse;
 - (9) patterns of child growth as related to neglect;
 - (10) resources for the treatment and recognition of non-organic failure to thrive;
 - (11) educational, mental health, and other resources for special needs children;
 - (12) the use and appropriateness of psychotropic drugs for children;
 - (13) domestic violence, its effect on parents, children, and families and appropriate resources;
 - (14) immigration law issues in juvenile court;
 - (15) transitional aspects of placement and the child's return home;
 - (16) the importance of placing siblings together when appropriate;
 - (17) the appropriateness of various types of placement;
 - (18) the efforts that should be made to ensure a smooth, timely transition;
 - (19) the effect of the placement on visitation by parents, siblings, and other relatives;
 - (20) the effect of the placement on the service needs of the child;
 - (21) the transracial, transcultural, and language aspects of the placement;
 - (22) risk assessment prior to reunification;
 - (23) the basics of case planning;
 - (24) accessing private insurance for services;
 - (25) consolidated cases in the family court;

	<p>(26) the Indian Child Welfare Act, Native American families, and appropriate resources;</p> <p>(27) the Refugee Children’s Act;</p> <p>(28) the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA);</p> <p>(29) the Parental Kidnapping Prevention Act;</p> <p>(30) the Interstate Compact for the Placement of Children;</p> <p>(31) the Interstate Compact on Juveniles;</p> <p>(32) guardianships; and</p> <p>(33) adoption placement preferences;</p> <p>(34) the rights a client might have as a result of being the victim of a crime. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 3.1 (Implementation).</p>
<p>9. Lawyer Compensation: <i>Adequate and timely compensation, reimbursement provided expenses.</i></p>	<p>- Appointment of counsel.</p> <p>(2)(a) When the court appoints counsel to represent the child, ward, youth or youth offender, it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account in the General Fund, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.</p> <p>(b) The test of the parent’s or estate’s ability to pay costs under paragraph (a) of this subsection is the same test as applied to appointment of counsel for defendants under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.</p> <p>(c) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.</p> <p>(d) The court’s order of payment is enforceable in the same manner as an order of support under ORS 419B.408 and 419C.600.</p> <p>(3) When the court appoints counsel and the child, ward, youth, youth offender, parent or guardian has been determined to be entitled to, and financially eligible for, appointed counsel at state expense, the compensation for counsel and costs and expenses necessary to the appeal shall be determined and paid as provided in ORS 135.055 if</p>

	the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court. OR. REV. STAT. § 419A.211 .
10. Caseload Levels: <i>Caseloads are of a manageable size.</i>	<p><i>No explicit legal authority or requirement.</i></p> <ul style="list-style-type: none"> - 3. A lawyer should have adequate time and resources. <ul style="list-style-type: none"> a. A lawyer should not accept caseloads that by reason of excessive size and/or complexity interfere with the provision of quality representation. b. A lawyer should have access to sufficient support services and physical resources to allow for quality representation. General Standards for Representation in All Criminal, Delinquency, Dependency & Civil Commitment Cases, written by the Oregon State Bar Board of Governors, Standard 1.1 (Implementation).