

OREGON

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>If a juvenile court does not have a sufficient number of qualified court appointed special advocates available to it, 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.195.</p>
<p>Funding Child Representation</p>	<p>(1) When the court appoints counsel to represent a child or ward, 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 established by ORS 151.225, 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>(2) The test of the parent's or estate's ability to pay costs under subsection (1) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the policies, procedures, standards and guidelines adopted 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>(3) 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. OR. REV. STAT. § 419B.198</p> <p>Whenever the court appoints a court appointed special advocate or other person under subsections (1) to (3) of this section to represent the child or ward, the court may require a parent, if able, or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of court appointed special advocate services, including reasonable attorney fees. The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408. OR. REV. STAT. § 419B.112(6)</p> <p>If the court appointed special advocate is represented by counsel, counsel shall be paid from funds in the Court Appointed Special Advocate Fund established under ORS 458.584. Counsel representing a court appointed special advocate may not be paid from moneys in the Public Defense Services Account established by ORS 151.225, from moneys appropriated to the Public Defense Services Commission or</p>

	<p>from Judicial Department operating funds... OR. REV. STAT. § 419B.112(1)</p>
<p>1. General Duties: 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.</p>	<p>(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.</p> <p>OR. REV. STAT. § 419B.195.</p> <p>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 may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. OR. REV. STAT. § 419B.112(1)</p> <p>For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) grant to this state under P.L. 93-247, or any related state or federal legislation, a court appointed special advocate or other person appointed pursuant to subsections (1) to (3) of this section is deemed a guardian ad litem to represent the interests of the child or ward in proceedings before the court. OR. REV. STAT. § 419B.112(9)</p> <p>When the court appoints counsel for the child or ward and the child or ward is determined to be entitled to, and financially eligible for, appointment of counsel at state expense, and the parent or guardian is without sufficient financial means to employ counsel, the compensation for counsel and reasonable fees and expenses of investigation, preparation and presentation paid or incurred shall be determined and paid as</p>

	<p>provided in ORS 135.055. OR. REV. STAT. § 419B.201</p>
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>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, the 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 an order of the court. OR. REV. STAT. § 419B.112(2) <p>Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the court appointed special advocate to inspect and copy, and may consult with the court appointed special advocate regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents. OR. REV. STAT. § 419B.112(7)</p> <p>A supplemental confidential file is open to inspection by the following:</p> <p>...</p> <p>(C) The guardian ad litem for the parent of a child or ward in a dependency case... OR. REV. STAT. § 419A.255</p> <p>The child’s lawyer should insure that the child is aware that he or she has a lawyer and communicate with the child before all court appearances, case status conferences, pretrial conferences and mediations, and any important decision affecting the child’s life, and following (and, when possible, before) significant transitions including, but not limited to, initial removal and changes in placement. Standard 2.A</p> <p>A child’s lawyer should actively represent a child in the preparation of a case, as well as at hearings. Standard 4.A</p> <p>The child’s lawyer should cooperate and communicate regularly with other professionals in the case. Standard 4.C</p> <p>The child’s lawyer should engage in case planning and advocate for a permanency plan and social services</p>

	<p>which will help achieve the child’s goals in the case. Standard 4.E</p> <p>A child’s 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. Standard 5.A</p> <p>The child’s lawyer should review the child welfare agency case file. Standard 5.B</p> <p>The child’s lawyer should obtain all necessary documents, including copies of all pleadings and relevant notices filed by other parties, and respond to requests for documents from other parties. Standard 5.C</p> <p>A child’s lawyer should have potential witnesses, including adverse witnesses interviewed and, when appropriate, subpoenaed by an investigator or other appropriately trained person. Standard 5.D</p> <p>The child’s lawyer should timely file all pleadings, motions, objections and briefs and research applicable legal issues and advance legal arguments when appropriate. Standard 6.B</p> <p>The child’s lawyer should promote and participate in settlement negotiations and mediation to resolve the case quickly. Standard 6.C</p>
<p>3. In Court – Active Participation in Hearings: Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake</p>	<p>Subject to the direction of the court, the duties of the court appointed special advocate are to: ... (b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court ... OR. REV. STAT. § 419B.112(2)</p> <p>The child’s lawyer should advocate for actions necessary to meet the client’s educational, health and mental health needs. Standard 2.G</p> <p>A child’s lawyer should actively represent a child in the preparation of a case, as well as at hearings. Standard 4.A</p>

<p>certain obligations post-disposition.</p>	<p>Prepare for and attend all hearings, including pretrial conferences. Standard 7A</p> <p>The child’s lawyer should request the opportunity to make opening and closing arguments. Standard 7.B</p> <p>Prepare and make all appropriate motions and evidentiary objections. Be aware of the need to make a record for appeal. Standard 7.C</p> <p>The child’s lawyer should present and cross examine witnesses and prepare and offer exhibits. Standard 7.E</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>Subject to the direction of the court, the duties of the court appointed special advocate are to: ... (c) Facilitate and negotiate to ensure that the court, the 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 an order of the court. OR. REV. STAT. § 419B.112(2)</p> <p>The child’s lawyer should ensure that findings of fact, conclusions of law and orders that benefit the child are included in the court’s decision. Standard 7.F</p> <p>Review court orders to ensure accuracy and clarity and review with client. Standard 8.A</p> <p>The child’s lawyer should take reasonable steps to ensure the client complies with court orders and to determine whether the case needs to be brought back to court. Standard 8.B</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>Prepare and make all appropriate motions and evidentiary objections. Be aware of the need to make a record for appeal. Standard 7.C</p> <p>Consider and discuss the possibility of appeal with the client. Standard 9.A</p> <p>If the client decides to appeal, the child’s lawyer should timely and thoroughly facilitate the appointment of appellate lawyer. Report of the Task Force on Standards of Representation in Juvenile Dependency, Standard 9.B</p>

	The child's trial lawyer should timely file the notice of appeal. Standard 10.A
6. Cessation of Representation: Contacts post representation, if any	The lawyer's responsibility to the client does not end with dismissal of the petition or entry of a final dispositional order. Counsel 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. Standard 3.11
7. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court	<p>A. 5. The court shall ensure that the child is represented by independent counsel throughout the pendency of the deprived action...</p> <p>B. 5. On or before December 31, 2009, the Administrative Director of the Courts shall develop a standard operating manual for guardians ad litem which shall include, but not be limited to, legal obligations and responsibilities, information concerning child abuse, child development, domestic abuse, sexual abuse, and parent and child behavioral health and management including best practices. After publication of the manual, all guardians ad litem shall certify to the court in which he or she is appointed as a guardian ad litem that the manual has been read and all provisions contained therein are understood. The guardian ad litem shall also certify that he or she agrees to follow the best practices described within the standard operating manual. The Administrative Director of the Courts shall provide public access to the standard operating manual and shall periodically review and revise the manual as deemed necessary. O. S. § 1-4-306.</p> <p>The child's attorney is independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian. The parent, legal guardian, or custodian may not select the child's attorney. OKLA. ADMIN. CODE 340:75-6-48.1</p>
8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.	<p>Before accepting an appointment or retainer on a child dependency or termination of parental rights case, the lawyer should gain experience by observing and serving as co- counsel in dependency and termination of parental rights cases. The lawyer accepting appointment or retainers to represent children in dependency and termination of parental rights cases should participate in at least 16 hours of continuing legal education (CLE) related to juvenile law each year. Standard 3.B</p> <p>A child's lawyer should acquire working knowledge of all relevant state and federal laws, regulations, policies and rules. Standard 3.C</p> <p>A child's lawyer should have a working knowledge of child development, family dynamics, placement alternatives case and permanency planning, and services for children and families in dependency cases. Standard 3.D</p>

<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>If the court appointed special advocate is represented by counsel, counsel shall be paid from funds in the Court Appointed Special Advocate Fund established under ORS 458.584. Counsel representing a court appointed special advocate may not be paid from moneys in the Public Defense Services Account established by ORS 151.225, from moneys appropriated to the Public Defense Services Commission or from Judicial Department operating funds... OR. REV. STAT. § 419B.112(1)</p> <p>2</p> <p>1) When the court appoints counsel to represent a child or ward, 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 established by ORS 151.225, 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>(2) The test of the parent’s or estate’s ability to pay costs under subsection (1) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the policies, procedures, standards and guidelines adopted 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>(3) 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. OR. REV. STAT. § 419B.198</p>
<p>10. Caseload Levels: Caseloads are of a manageable size</p>	<p>No explicit legal authority or requirements</p>