

Representing Children in Juvenile Court

Rules of Professional Conduct, Performance Standards and Practical Challenges

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Agenda

- Brief Introductions
 - Public Defense Services Commission
 - Provider Attorneys: contracts & qualifications
- Rules and Standards governing practice
 - Oregon Rules of Professional Conduct
 - Oregon State Bar Report of the Task Force on Standards of Representation in Juvenile Dependency Cases
- Hypothetical Situations: challenges which arise in representing children

ORS 151.216: PDSC Duties

The Public Defense Services Commission shall

- Establish and maintain a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

Provider Attorneys

- Independent Contractors
- Model Contract Terms
(<http://www.oregon.gov/OPDS/CBS/pages/modelcontractterms.aspx>)
- Qualification Standards
(<http://www.oregon.gov/OPDS/CBS/pages/qualificationstandards.aspx>)

Provider Contractual Obligations

- **7.1.1 Standards of Representation**

Appointed counsel shall fulfill applicable state and national standards of performance, including those of the Oregon State Bar, American Bar Association, National Juvenile Defender Center and National Legal Aid and Defender Association. Counsel shall also satisfy applicable state and federal constitutional requirements for the provision of adequate and effective assistance of counsel, and meet state and federal statutory requirements for counsel in the applicable proceedings. And counsel shall satisfy the requirements of the Oregon Rules of Professional Conduct.

Provider Contractual Obligations

- **7.1.2 Representation at all Stages of a Proceeding**

Contractor shall provide representation in all proceedings related to the legal matter that is the subject of the representation...

- **7.2.3 Continuing Legal Education Requirements**

Contractor shall ensure that all contract attorneys providing representation under this contract: (a) Obtain 12 hours of continuing legal education credits related to the practice of juvenile law during each year of this contract, if the attorney is handling juvenile court cases;

Performance Standards - Dependency

- American Bar Association: separate standards for lawyers representing the state, children and parents
 - ABA Standards of Representation - Children
http://www.americanbar.org/content/dam/aba/migrated/family/reports/standards_abuseneglect.authcheckdam.pdf
 - ABA Parent Representation Standards
http://www.americanbar.org/groups/child_law/what_we_do/projects/parentrepresentation/written_materials.html#StandardsofPractice

Performance Standards - Dependency

- Oregon State Bar Report of the Task Force on Standards of Representation in Juvenile Dependency Cases
 - Drafted by Task Force; Adopted by Board of Governors June 27, 2014
 - Aligns Oregon standards with ABA structure; sets forth distinct specific standards for lawyers who represent children & parents
 - Conforms Oregon performance standards with Oregon Rules of Professional Conduct

Role of Lawyer at court and CRB reviews

(Appendix C.(D), Performance Standards for Lawyers Representing Children)

- Fully prepared to represent child at all reviews and CRBs
 - Conduct appropriate investigation including: DHS reports, interviewing the child, interviewing others involved in the case & potential witnesses
 - Present information to support child's position including: whether jurisdiction should continue, whether there is a need for continued placement, reasonable (active) efforts, visitation, whether the case and service plan need to be modified
 - Consider submitting written report on behalf of the child
 - Seek specific findings and orders which advance the child's position

Common Themes

- Particularized training for lawyers
- No use of a “best interest” standard
- Client-directed advocacy
- Regular and meaningful client communication
- Avoid unnecessary delay
- Conduct thorough and independent investigations



State of Oregon
Office of Public Defense Services

Contact Information

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Additional Resources

- Oregon State Bar Report of the Task Force on Standards of Representation in Juvenile Dependency Cases (June 27, 2014)
<https://www.osbar.org/docs/resources/juveniletaskforce/JTFR3.pdf>
- Oregon Rules of Professional Conduct (February 19, 2015)
<http://www.osbar.org/docs/rulesregs/orpc.pdf>
- Advocating for Very Young Children in Dependency Proceedings: The Hallmarks of Effective, Ethical Representation (Candice L. Maze, October 2010)
http://www.americanbar.org/content/dam/aba/migrated/child/PublicDocuments/ethicalrep_final_10_10.authcheckdam.pdf
- Seen, Heard and Engaged: Children in Dependency Court Hearings (National Council of Juvenile and Family Court Judges, August 2012)
http://www.ncjfcj.org/sites/default/files/CIC_FINAL.pdf
- One Judge's Perspective on Children in Court (Judge Nan Waller, Presiding Judge, Multnomah County Circuit Court, Oregon)
http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.8173525/k.97E7/JP_3_Waller.htm