



ABA Center on Children and the Law

Legal Representation in Child Welfare Proceedings

Benefits of high-quality legal representation



Protects parents' and children's legal rights.



Increases parties' participation in and out of court.



Improves all parties' perceptions of fairness.



Reduces delays in achieving permanency and helps children and families reach better, long-term outcomes.



Promotes tailored case plans and services.



Improves frequency and timeliness of parent-child and sibling visitation and family time.



Empowers families and communities to keep children safe at home.



Informs better judicial decision making.



Saves jurisdictions money by reducing time children spend in foster care.



Structuring a system of high-quality representation

- ✓ Clearly define roles and expectations.
- ✓ Set reasonable caseloads.
- ✓ Offer fair compensation and benefits.
- ✓ Follow standards of practice.
- ✓ Provide specialized child welfare law training.
- ✓ Ensure effective supervision.
- ✓ Seek client feedback on representation.
- ✓ Give attorneys access to an interdisciplinary model of representation.






How judges promote high-quality legal representation

- ✓ Ensure all parties have access to legal representation as early as possible in the case.
- ✓ Confirm all counsel have requisite training, experience and understanding of child welfare law to vigorously represent their clients.
- ✓ Establish an environment where parties are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.
- ✓ Understand the child welfare agency's practices, procedures, and operations, and ensure it fulfills its legal duties.
- ✓ Require that all attorneys adopt a disciplined approach to processing cases and respect timely court hearings, court decisions, and implementation of court orders.
- ✓ Ensure the spirit of collaborative meetings and case management does not compromise any party's rights and protections under the law.
- ✓ Seek opportunities to train child welfare attorneys.
- ✓ Solicit input from all parties to gain as complete a picture as possible to inform judicial decision making and promote child and family well-being.

Essential practices for all child welfare attorneys

- ✓ Advocate for your client.
- ✓ Ensure judges have information needed to make case decisions.
- ✓ Communicate with clients regularly.
- ✓ Know federal and state child welfare laws and keep current on new developments.
- ✓ Prepare for and attend court hearings and reviews.
- ✓ Seek court accommodations that promote equal access and full participation in proceedings.
- ✓ Prepare clients and witnesses for court.
- ✓ Maintain a reasonable caseload and devote sufficient time for advocacy.
- ✓ Conduct a thorough, independent investigation at every stage of the case.
- ✓ Provide ethical legal representation.
- ✓ Understand and effectively implement trauma-informed practice.
- ✓ Confirm clients receive proper notice and comply with court orders.
- ✓ Actively engage in conflict resolution and negotiation.
- ✓ Reduce case continuances and timely file all pleadings, motions, and briefs.
- ✓ Mentor and train others in the field.
- ✓ File motions and appeals to protect client rights and interests.
- ✓ Understand how cultural, social, and economic differences affect the attorney-client relationship and avoid personal and system bias.

Quality hallmarks

 <p>Child attorney</p>	 <p>Parent attorney</p>	 <p>Agency attorney</p>
<p>Role: Protect and advance child’s interests in court, provide legal counsel, and help the child understand the legal process and feel empowered to participate.</p> <p>Quality hallmarks:</p> <ul style="list-style-type: none"> • Understand the child’s wishes in the case. • Understand the child’s strengths, needs, and resources. • Ensure the child has an opportunity to attend and participate in court hearings. • Advocate for the child to maintain contact with parents, siblings, and kin through visitation, placement, and permanency planning. • Work with collateral contacts—teachers, foster parents, service providers. • Collaborate with a multidisciplinary team. • Promote tailored, specific case plans and services. • Advocate for the child’s access to education and community supports. 	<p>Role: Protect the parent’s legal rights, advance the parent’s interests in court, and help the parent understand the legal process.</p> <p>Quality hallmarks:</p> <ul style="list-style-type: none"> • Explain the child welfare legal system and the parent’s rights and duties. • Ensure the parent’s voice is heard and understood in the proceedings. • Help the parent problem solve and meet case goals. • Build a relationship of trust and ensure the parent experiences fairness. • Understand the parent’s life circumstances, including strengths, needs, and available resources. • Advocate parent-child contact through visitation and permanency planning. • Collaborate with a multidisciplinary team, including parent mentors and parent social workers. • Address collateral legal issues that may affect the child welfare case in housing, employment, health care, disabilities, domestic violence, benefits, criminal justice, and immigration law. 	<p>Role: Represent the child welfare agency or jurisdiction and present evidence of the underlying case in court including agency compliance with federal and state child welfare laws.</p> <p>Quality hallmarks:</p> <ul style="list-style-type: none"> • Provide guidance to agencies and caseworkers on child welfare law, procedures and policies. • Consult on decisions to remove or return a child and ensure decisions meet legal standards. • Prepare or help prepare the initial petition and subsequent pleadings. • Promote quality casework and agency performance to support families. • Ensure no undue delays in service provision, case planning, or other agency duties. • Cooperate and communicate regularly with other counsel. • Help the agency meet federal monitoring and continuous quality improvement requirements. • Work with agency to ensure parties’ legal rights are protected. • Train caseworkers on federal and state laws to ensure the agency maintains high-quality performance.