ABA 2020 Midyear

Omni Austin Hotel Downtown

Austin, TX

KIND Training

The Legal Crisis Facing Unaccompanied Child Immigrants: How You Can Help

Friday, February 14, 2020

10:15 AM - 11:15 AM

Panelist:

Fernando Candil

Brittany Faith

Kari Petrasek

Betty Balli Torres
Fernando Candil is a Staff Attorney for RAICES in Austin, Texas. He has represented dozens of unaccompanied children in both affirmative and defensive immigration applications, as well as state custody proceedings. Fernando provides direct representation to children from the moment they are released from the shelter until they apply for citizenship.
Brittany Faith

Brittany Faith joined Grant, Konvalinka & Harrison, P.C.’s Immigration Practice Group in 2012. She was elected to be a Director of the firm at the end of 2018. Before joining GKH, she served as Director of UT’s Pro Bono Program and created the law school’s U Visa Alternative Spring Break Program. Ms. Faith focuses her practice on immigration, including family-based petitions, employment-based petitions, and humanitarian relief.

Ms. Faith currently serves as the Chair of the AILA’s Midsouth Chapter, which constitutes immigration attorneys in Tennessee, Kentucky, Arkansas, Mississippi, and Louisiana. She also has been active with the local young lawyers. Ms. Faith is currently serving as the Tennessee Bar Association Young Lawyers Division East Tennessee Governor and has led several immigration focused service projects. Ms. Faith also serves on the board of La Paz of Chattanooga, which has been the inspiration for many of her service projects.
KARI PETRASEK

Kari Petrasek is a solo attorney at Petrasek Law in Mukilteo, Washington. In the 17 years she has practiced, she has been primarily a civil litigator, focusing much of her practice in the area of juvenile law, handling mostly dependency and termination matters and also juvenile offender cases. Ms. Petrasek has also been a dedicated advocate for children, serving as a CASA Attorney and an Attorney Guardian ad Litem for dependent children. In addition, Ms. Petrasek has served as a judge and commissioner pro tem at Snohomish County Superior Court for the past eleven years.
Betty Balli Torres

Betty Balli Torres has dedicated her professional career to public interest work serving as an advocate for civil legal services for the poor. She has served as the Executive Director of the Texas Access to Justice Foundation, the largest funding source for legal services to the poor in Texas, since 2001. Betty started her legal career as a staff attorney at Legal Aid of Central Texas. She has held various public interest law positions, including: Executive Director of Laredo Legal Aid Society, Inc., Legal Director of Volunteer Legal Services of Central Texas, Managing Attorney of Legal Aid of Central Texas and as a staff attorney at Advocacy, Inc. Betty has served on many local, statewide and national committees, boards and task forces related to access to justice.

She is a Past President of the National Association of IOLTA Programs and Immediate Past Co-chair of the Board of Grantmakers Concerned with Immigrants and Refugees. She serves as Co-Chair of the ABA’s Working Group on Unaccompanied Minors and serves on the boards of Management Information Exchange (MIE) and ProBonoNet. She serves as Chair of the Hispanic Issues Section of the State Bar of Texas and is a member of the Texas Human Trafficking Prevention Task Force. Betty is a recipient of the Distinguished Lawyer Award (Austin Bar Association), Tower of Justice Award (Texas Legal Services Center), Outstanding Public Interest Attorney Award (Travis County Women Lawyers Association), the Regina Rogoff Award (Austin Bar Association), the “Nonny” Award for Outstanding Nonprofit Leadership in Austin, the “Star of Justice” Award (Texas Access to Justice Commission), the prestigious Harold Kleinman Award, the Community Service Award and Chair’s Award (Hispanic Issues Section-State Bar of Texas) and the ABA’s Grassroots Advocacy Award.
Repatriation, Reintegration and Protection of Returning Unaccompanied and Separated Children

**Reunification Preferences.** Children who have been forcibly separated from their parent upon entry into the United States face unique challenges different than those encountered by other Unaccompanied Children (“UCs”). A forcibly separated child can elect to reunify with an ORR sponsor in the U.S., seek placement in ORR Long-Term Foster Care, reunify and jointly repatriate with their parent, or repatriate alone after their parent has been deported.

**KIND Child Migrant Return & Reintegration Project (CMRRP) and Central American Family Reunification and Reintegration Project.** KIND’s reintegration programs seek to provide holistic support to UCs returning to geographic areas of high migration in Guatemala and Honduras, through advocacy and coordination with Legal Service Providers (“LSPs”) and other stakeholders, the U.S., Guatemalan and Honduran governments, and partnerships with local service providers. Once you have established that your client is seeking to return to their country of origin and would like to refer the case to KIND:

1. **Assess Eligibility**
   a. UCs who are considering or have been granted Voluntary Departure or who have received a Removal Order, or separated children with a canceled Notice to Appear;
   b. Child is returning to the following departments in **Guatemala**: Quetzaltenango, Huehuetenango, Quiche, Totonicapán, Sololá;
   c. Child is returning to the following cities/departments in **Honduras**: San Pedro Sula and surrounding areas (Valle de Sula), Olancho, and Tegucigalpa, on a case by case basis; parts of Cortes, Yoro, Colon, Santa Barbara;
   d. Children who are 18 are eligible if they entered the country as UCs.
2. **Counsel your Client**
   a. Participation in the reintegration program is voluntary—the child can change their mind both about receiving services, and about the return itself. Referrals may be helpful for children who are considering return for them to learn more about the process and services they may receive;
   b. Ascertain that child is not being pressured by someone to return;
   c. Manage the child’s expectations regarding the timeframe for return, particularly if the child’s immigration proceedings are still pending;
   d. Manage the child’s expectations regarding the timeframe for reunification if they have elected to jointly repatriated with a parent they have been separated from, particularly if the parent is still in the custody of the U.S. Marshal’s;
   e. If a separated child and parent wish to reunify prior to joint repatriation, ensure the parent’s election form has been submitted to ICE and ORR has a copy;
f. Remind your client that KIND is not affiliated with either the U.S., Guatemalan, or Honduran governments, but will coordinate with them during returns. Returning children and their family members will also be screened by receiving government child welfare entities upon arrival.

3. Refer to CMRRP
   a. Review and sign the consent form, which allows you to disclose information about the child’s case but does not commit to participation. The form is available for download at https://supportkind.org/reintegration-referral-form/;
   b. Complete the online referral form in as much detail as possible. In particular, note any possible safety concerns in your referral, and KIND will refer the case for a protection screening as needed;
   c. Reintegration programs staff will contact you to discuss the case and set up an intake interview with the child. The interview can be conducted with you and the child or just with the child and their caretakers;
   d. Referrals should be made no later than 5 business days prior to the child’s departure.

4. Pre-Departure Preparation
   a. Once the child has determined that they are going to return, and if KIND is able to accept the case, KIND will communicate with you about travel arrangements and complying with ICE departure procedures. For released children this varies by region in the U.S.;
   b. ICE officials have stated they will pay for travel for unaccompanied minors who have been released from ORR custody. You should coordinate with your local ICE Field Office Juvenile Coordinator (“FOJC”). KIND can assist in communicating with ICE;
   c. Advocate for personnel trained in child welfare and child development and with the appropriate cultural and linguistic competencies to accompany children on return flights. Known persons should accompany tender age or high-needs children;
   d. KIND’s Guatemalan or Honduran partners coordinate travel with families from home communities to reception centers and help prepare families for the return of children;
   e. Children seeking to reunify with a separated parent prior to joint repatriation may be transferred to an ORR shelter close to where their parent is presently detained for the purpose of reunification; LSPs should counsel children as to when they will be reunited with their parent, whether it is prior to boarding the return flight or in a detention setting.

5. Reception
   a. KIND communicates with ORR and/or FOJC to confirm successful departure and relays any changes to partners and the child’s family;
   b. KIND partners accompany the child’s family to reception center: Casa Nuestras Raíces in Guatemala City or Centro Belen in San Pedro Sula, Honduras;
   c. Upon arrival, the child is transferred from ICE custody and the child and their family members are screened by receiving government child welfare entities prior to reunification;
   d. Partner organizations assist with return transportation and schedule follow-up home visit to begin reintegration work.

6. Reintegration
   CMRRP provides services for one year after a child’s return. Services are evaluated depending on the individual family’s needs, and may include:
a. Travel and reception support;
b. Accessing school and alternative education programs;
c. Vocational training, apprenticeships, job searching;
d. Psychosocial support, access to medical and mental health services;
e. Home and family safety assessment and planning;
f. Youth groups and activities; empowerment, cultural identity, recreation.

Separated Parents Seeking Return to the United States under the Ms. L v. ICE Settlement. On September 4, 2019, Judge Dana Sabraw ordered the return of 11 separated parents who were “wrongfully removed” based on certain criteria. The judge considered primarily whether the separation affected the voluntariness of the parent’s decisions in the immigration proceedings or if a statutory or regulatory violation in the immigration process occurred, independent of the separation. Cases of parents who were coerced into accepting deportation or misled about the asylum process and separation or reunification, among other factors, may qualify. To date, none of the parents have been returned to the United States, so it is unknown how the government will interpret the judge’s order that the parents be returned in order to “be reunited with their children and pursue their asylum claims”. However, advocates representing children with a parent seeking return under the settlement should consider potential impacts on UAC status determination, eligibility for certain types of relief, case consolidation, and the child’s mental health and living situation, among other factors. Settlement return may not apply to post-injunction separations (pending the results of the ACLU motion to enforce filed in Sept. 2019) or to other separation cases excluded from the settlement by the government.

Repatriated Children with Protection Concerns. Many families may lack access to possible avenues for reunification with their children in the United States, and some children will seek return and reunification with their parents in their country of origin even if they had or have serious protection concerns there. KIND’s Family Reunification and Protection Program seeks to address the safety and protection needs of separated families wherever they choose to reunify. Advocates whose clients have expressed protection concerns in their country of origin (either before or after their return), can refer cases to KIND in order to evaluate the family’s case for possible solutions, including resettlement, third-country asylum, and internal relocation. The Family Reunification and Protection Program can receive referrals for any separated family regardless of their country of origin and can receive referrals for new separations as well as for original and expanded Ms. L v. ICE class members. Referrals should be sent to Laura Just, Senior Protection Officer, at just@supportkind.org.
Grounding Techniques

After a trauma, it’s normal to experience flashbacks, anxiety, and other uncomfortable symptoms. **Grounding techniques** help control these symptoms by turning attention away from thoughts, memories, or worries, and refocusing on the present moment.

**5-4-3-2-1 Technique**

Using the 5-4-3-2-1 technique, you will purposefully take in the details of your surroundings using each of your senses. Strive to notice small details that your mind would usually tune out, such as distant sounds, or the texture of an ordinary object.

<table>
<thead>
<tr>
<th><strong>What are 5 things you can see?</strong></th>
<th>Look for small details such as a pattern on the ceiling, the way light reflects off a surface, or an object you never noticed.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>What are 4 things you can feel?</strong></td>
<td>Notice the sensation of clothing on your body, the sun on your skin, or the feeling of the chair you are sitting in. Pick up an object and examine its weight, texture, and other physical qualities.</td>
</tr>
<tr>
<td><strong>What are 3 things you can hear?</strong></td>
<td>Pay special attention to the sounds your mind has tuned out, such as a ticking clock, distant traffic, or trees blowing in the wind.</td>
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<tr>
<td><strong>What are 2 things you can smell?</strong></td>
<td>Try to notice smells in the air around you, like an air freshener or freshly mowed grass. You may also look around for something that has a scent, such as a flower or an unlit candle.</td>
</tr>
<tr>
<td><strong>What is 1 thing you can taste?</strong></td>
<td>Carry gum, candy, or small snacks for this step. Pop one in your mouth and focus your attention closely on the flavors.</td>
</tr>
</tbody>
</table>

**Categories**

Choose at least three of the categories below and name as many items as you can in each one. Spend a few minutes on each category to come up with as many items as possible.

<table>
<thead>
<tr>
<th>Movies</th>
<th>Countries</th>
<th>Books</th>
<th>Cereals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sports Teams</td>
<td>Colors</td>
<td>Cars</td>
<td>Fruits &amp; Vegetables</td>
</tr>
<tr>
<td>Animals</td>
<td>Cities</td>
<td>TV Shows</td>
<td>Famous People</td>
</tr>
</tbody>
</table>

For a variation on this activity, try naming items in a category alphabetically. For example, for the fruits & vegetables category, say “apple, banana, carrot,” and so on.
Grounding Techniques

Body Awareness
The body awareness technique will bring you into the here-and-now by directing your focus to sensations in the body. Pay special attention to the physical sensations created by each step.

1. Take 5 long, deep breaths through your nose, and exhale through puckered lips.
2. Place both feet flat on the floor. Wiggle your toes. Curl and uncurl your toes several times. Spend a moment noticing the sensations in your feet.
3. Stomp your feet on the ground several times. Pay attention to the sensations in your feet and legs as you make contact with the ground.
4. Clench your hands into fists, then release the tension. Repeat this 10 times.
5. Press your palms together. Press them harder and hold this pose for 15 seconds. Pay attention to the feeling of tension in your hands and arms.
6. Rub your palms together briskly. Notice and sound and the feeling of warmth.
7. Reach your hands over your head like you’re trying to reach the sky. Stretch like this for 5 seconds. Bring your arms down and let them relax at your sides.
8. Take 5 more deep breaths and notice the feeling of calm in your body.

Mental Exercises
Use mental exercises to take your mind off uncomfortable thoughts and feelings. They are discreet and easy to use at nearly any time or place. Experiment to see which work best for you.

- Name all the objects you see.
- Describe the steps in performing an activity you know how to do well. For example, how to shoot a basketball, prepare your favorite meal, or tie a knot.
- Count backwards from 100 by 7.
- Pick up an object and describe it in detail. Describe its color, texture, size, weight, scent, and any other qualities you notice.
- Spell your full name, and the names of three other people, backwards.
- Name all your family members, their ages, and one of their favorite activities.
- Read something backwards, letter-by-letter. Practice for at least a few minutes.
- Think of an object and “draw” it in your mind, or in the air with your finger. Try drawing your home, a vehicle, or an animal.

Introduction

- What is an Interview? “Method of gathering information that allows us to collect data”
- Purpose of the legal interview. (Immigration) gather information to identify any potential eligibility for an immigration benefit.

Building Rapport

- What is rapport? is the process of developing that connection with someone else. A) Rapport can happen naturally. B) I can also be build and developed consciously by finding common ground and being empathetic.
  - Techniques
    - Mirroring: consists of adapting to the rhythm of the other person.
      - a) Gesturally
      - b)Orally
      - c) Emotionally.
    - Reciprocity. Which is reflected through active listening, in which the interviewer, despite remaining more silent than the interviewee remains, constantly gives signals to listen to the other person and react to what he/she says.
  - Share Interests.
  - Rapport establishes empathy, trust, and clear communication.

The Interview

- Interview Setting. It is preferable to have a setting that provides the child with a sense of safety, security and Privacy. Sometime we find ourselves limited, as we have to adapt to whatever is available or provided by the shelter or facility.
- Explain the purpose of the interview to the child. The first step in interviewing children is communicating the reason of the interview, who is your Organization and your role in it.
- Beginning the interview. Recommendations: a) eye contact. b) When walking with the child towards the assigned interview setting, use the time to learn about child’s feelings and interest. c) Once in the space, where the interview is going to take place let the child explore and move towards getting comfortable. d) Sit adjacent to the child. e) Let child know that he/she is safe.

Identifying Child’s developmental level

When conducting an interview with children, the questions should be adapted to their cognitive developmental stage. We can do this by asking a child to identify colors and check if they understand simple prepositions.

- It is important to avoid complex and long questions: the vocabulary must be accessible to the child
Confidentiality

Explaining confidentiality. Before beginning the interview, we are expected to read to the child your organizations confidentiality statement and disclaimer. It is always important to take a moment to know if child truly understands. Learn the statement and explain to the child in your own words.

At the end of the interview, ask child if there is anything they have said during the interview that they would or would not want their parents, sponsor or someone else to know.

- Texas Law requires anyone with knowledge of suspected child abuse or neglect to report it to the appropriate authorities also for elderly abuse or neglect. This mandatory reporting applies to all individuals and is not limited to teachers or health care professionals. *** For individuals working in other states, please refer to your State guidelines on how to report suspected abuse.
- Always be aware of the guidelines and procedures mandated by the Organization you work for.

Information gathering (When Appropriate)

Explain to the child

- Lie vs Truth. When appropriate Let the child know “today”, you only want to talk about true things. check if child differentiates these concepts by asking simple questions, ex. If I told you, I have purple hair, would that be a true or a lie?
- Guessing vs Not knowing. Let the child know that it is ok to “not know” the answer to a question and that he/she should not guess. There are no right or wrong answers. Be aware that the child can be very frightened and a young child’s perception may seem a fantasy to you but is a reality to them.
- Encourage child to ask questions.

Choosing appropriate questions

Research shows that children provide information that is more accurate when they are freely narrating, rather than when they are being asked direct questions (Garbarino, 2005).

- Open-ended Question. Know the language of Open-Ended questions.
- Indirect Questions

The process of moving from opened-ended to closed-ended questions must be repeated throughout the interview. This technique makes it feel more like a conversation, rather than an interview or interrogation.

- Prevent the question from influencing the response: Consider that the way in which the interviewer formulates a question often guides or influences the response. A) Respect the silences and pauses avoiding pressing for an answer. B) Acknowledge your non-verbal language.
**Acknowledge Non-Verbal Language**

According to the child’s stage of development, cognitive abilities, emotional situation and even socioeconomic context, it may happen that his/her linguistic resources are limited.

- Paying attention to nonverbal language, looks, silences, pauses, redness, gestures, repetitive movements, smiles, volume or tone of voice, etc., can facilitate the understanding of the situations and can indicate a conflict or the child’s feelings.

**Identifying when an Interpreter is necessary**

The first step in providing language services for a child is to assess his or her language skills so that you have a clear sense of the child’s language access needs. A) ask the child what his or her “best” language is. B) Remind the children that they have the option to communicate via an interpreter. C) Check for comprehension by asking several questions in Spanish that require a full sentence response or by asking the child to repeat statements back to you in his/ her own words. D) If the child wishes to continue in his language, please oblige the request out of respect for the child’s wishes.

If the child does not know its language, try using map to identify the region where child lives in home country.

After determining that the child is not proficient in Spanish, it is important to remember that the child didn’t understand the contents of the KYR. S/he is most likely unaware of who you are and why you want to ask questions. A good introduction and a brief overview of the KYR at the beginning of the legal screening are vital to establish a good rapport with the child.

**Age appropriate techniques and games.**

**Having toys and games available during an interview is important because**

**Play:**

- Stimulates the cerebellum, which coordinates the movements.
- Stimulates the frontal lobe, associated with decision making and impulse control.
- Offers a warm environment for the child
- It gives them a sense of belonging and control

**Age appropriate techniques and games**

- 2 to 5: In this stage, the symbolic game predominates (the one that consists of simulating situations, use of objects and characters), toys that promote the child’s imagination and motivate them to create.

Techniques to elicit information (2- 5 year olds)
A) Play Figures
Young children can often be engaged in doll house play and play with animals (stuffed or puppets) where specific situations can be played out. Even if they are not very verbal, the children can be asked to place the play figure where they think they belong.

B) I Feel Game
This game is very non-threatening and familiar to some children, so they feel comfortable playing. It may pave the way for exploring the child's feelings. You may ask the child, "Show me the face that shows how you feel when __________ happens." (Describe an event that has happened) Mix difficult happenings with safe ones ("How do you feel when you go to the park to play?"). **Emoji Chart

- 6 to 9: With this age group try to determine if the child has understood the question by asking the child to repeat what you have said, rather than asking, "Do you understand?" Try not to follow every answer with another question. Instead, either comment, ask the child to elaborate, or simply acknowledge the child's response.

Techniques to elicit information (6-9 year olds)

A) Magic Wand
"If you had a magic wand (it is nice if you actually have a magic wand!) and could choose who to live with in the US, who would you choose?) Since these children need a sense of control over their lives, they enjoy getting the opportunity to express their interests. Some will say, “I want to live with my sponsor” or “I really want to live with my mom’s friend”.

B) Three Wishes
"If you had three wishes about your family, what would they be?" Common responses are "That Mom and Dad live together", "that they stop fighting", or "that we all live in the same house." – Interviewer wont make promises that these will happen, but can acknowledge child by saying “What you have share is very valuable to me” “It can be hard seeing your parents fight” and can continue the interview asking how they felt when the situation was happening.

- 10 to 13: Many of the activities mentioned for the 6 to 9 year olds are suitable for this age group. The most useful games are the drawings, coloring pages, peg boards, etc. The logical thinking for this group is advanced, so try to challenge them in some way.

- 14 to 17: Interviewing adolescents requires interest, time and experience. Interviewing adolescents means attending to demands that are different from those of children or adults, not always being liked by professionals. To achieve effective care and a good relationship, it is essential that the professional likes and wishes to deal with adolescents, since they have an exquisite sensitivity to identify acceptance or rejection. In most cases, the first part of the interview should focus on encouraging the teen to talk about issues central to the child's life which are separate from the removal proceedings, such as dating, friends, classes, sports, and extra-curricular activities.
Techniques to elicit information (13 to 17 year olds)

Active listening techniques

**Affirmations**

Affirmations are statements and gestures that recognize client strengths and acknowledge behaviors that lead in the direction of positive change, no matter how big or small. Affirmations build confidence in one’s ability to change. To be effective, affirmations must be genuine and congruent.

Examples of affirming responses:

“I appreciate that you are willing to meet with me today.”

“You handled yourself really well in that situation.”

**Reflective Listening**

Reflective listening is a primary skill in outreach. It is the pathway for engaging others in relationships, building trust, and fostering motivation to change. Reflective listening appears easy, but it takes hard work and skill to do well.

- **Repeating or rephrasing**: Listener repeats or substitutes synonyms or phrases, and stays close to what the speaker has said
- **Paraphrasing**: Listener makes a restatement in which the speaker’s meaning is inferred
- **Reflection of feeling**: Listener emphasizes emotional aspects of communication through feeling statements. This is the deepest form of listening.

**Summarization**

Summarization is a special application of reflective listening. They can be used throughout a conversation but are particularly helpful at transition points, for example, after the person has spoken about a particular topic, has recounted a personal experience, or when the encounter is nearing an end.

**Structure of Summarization:**

Begin with a statement indicating you are summarizing. For example:

- Let me see if I understand so far...
- Here is what I’ve heard. Tell me if I’ve missed anything

**Grounding Techniques**

Grounding is a technique that helps keep someone in the present. They help reorient a person to the here-and-now and in reality. Grounding skills can be helpful in managing overwhelming feelings or intense anxiety. They help someone to regain their mental focus from an often intensely emotional state. (*Grouping exercises handout*)
The end of the Interview

Closing an initial interview is a form of art that requires care. A good closing is not limited to summarizing the interview, but also prepares the child for the sessions that may lie ahead. The child who has invested their time and confidence with you expects some information that can be taken from that meeting. The content of that message depends on the nature of the interview and the relationship you have built with them. The impression you leave with this child is going to affect their future relationship with your organization.

Closing Statement

Have something ready!

“Estamos por acercarnos al final de esta platica pero antes, me gustaría saber, ¿Hay algún tema importante que no hayamos platicado?”

“¿Hay algo más que me quiera platicar?”

“Hemos llegado al final y antes de despedirnos me gustaría saber si usted tiene alguna duda?”

“Gracias por el tiempo que me ha brindado. En verdad me ha gustado platicar con usted y conocer su historia. Creo que usted ha sido muy valiente. Espero que todo funcione bien para usted. No olvide que estamos para apoyarle y no dude en llamar si tiene alguna duda”.

Conclusion

As an interviewer, your goal should be to tailor your conversation with each child while using the relevant and age appropriate techniques. We won’t always have the time to use every technique discussed but be innovative as a form of creating rapport and providing quality services.
ABA Standards for the Legal Representation of Unaccompanied Alien Children in the U.S.

The Attorney’s role initially is to advise the Child of all their legal options and their potential consequences in a Developmentally Appropriate manner, even where some options may not be in the Child’s best or legal interests. Ultimately, the Attorney must advocate for the Child’s expressed wishes, or for his legal interests where the Child expresses no wish or has been found to lack competence pursuant to the procedure set forth within these Standards. The Attorney must take care to advise the Child of his legal options and the likely consequences of those options, without imposing the Attorney’s own views as to what the Child should do.

The Attorney shall inform the Child of his right to privacy.

At all times, the Attorney shall respect the Child’s right to privacy. That privacy should be protected not only by conforming to the duty of confidentiality, but also by actively assuring that the Child is protected from unwanted publicity and outside influence, and is afforded personal privacy.

The Attorney shall ensure that the Child participates in the Immigration Investigation and Exec Office of Immigration Rev Proceedings to the greatest extent possible, taking into account the Child’s age, intellectual, social and emotional development, maturity, level of education, ability to communicate, and personal circumstances.

The Attorney shall provide the Child with legal advice and zealously advocate the Child’s legal interests, as directed by the Child’s expressed wishes.

If the Child does not express the objectives of representation, or is found incompetent pursuant to the procedure set forth in these Standards, the Child’s Attorney shall advocate for their client’s legal interests, preserving to the greatest extent possible any immigration remedies available to the Child.

At the attorney’s first meeting with the Child and throughout their representation, shall determine and monitor whether these Standards are being complied with, and, if not, seek compliance on behalf of the Child. Also at this first meeting, the Attorney shall clearly inform the Child that the Child’s conversations with the Advocate for Child Protection are not confidential.

The Advocate for Child Protection is an individual with appropriate expertise appointed to determine and advocate the best interests of the Child.

The Attorney shall not reveal otherwise confidential communications of the Child to the Advocate for Child Protection, even when doing so would better inform the Advocate for Child Protection’s best interest assessment.

However, the Attorney should keep the Advocate for Child Protection informed and advised as to the Child’s progress throughout the immigration process and the possible consequences of different legal strategies, so long as such communication is not inconsistent with the protection of the Child’s legal interests and does not violate the Attorney’s ethical duties toward the Child. The
Attorney should also provide the Advocate for Child Protection with timely notice of all proceedings.

The Attorney shall ensure that any interpreter or translator used in his communications with the Child understands his confidentiality obligation.

The Attorney shall respond promptly to all questions and requests for documents and information from the Child.

The Attorney shall investigate all forms of relief available to the Child and the impact of each on the Child.

The Attorney should advise the Child of the consequences for failure to appear at any scheduled proceeding.

A Child shall have the right to appeal a final decision in any Immigration Investigation or EOIR Proceeding to an independent judicial authority.

The Attorney shall promptly inform the Child of his appellate rights and take all steps necessary to protect those rights, at least until an appellate Attorney is substituted or a decision is made not to appeal. Nothing herein requires an Attorney to represent the Child on appeal.

The Attorney shall advise the Child of the date, nature, issues and potential consequences of any pending post-decision hearing or proceeding. The Attorney should urge, and if necessary seek to facilitate, the attendance at any such hearing of the Child and of any material witnesses who may be called.
RESOURCES


National Association of Counsel for Children: NACCchildlaw.org

ABA Center for Children and the Law: www.abanet.org/child
