

These standards are not intended to substitute for, or impede the exercise of, an attorney's professional judgment or discretion. However, if an attorney elects not to perform a particular task specified in the standards, that decision should be the result of purposeful consideration in the context of the facts of a specific case rather than a random or blanket decision by the attorney.

PERFORMANCE STANDARDS YOUTH ATTORNEY (YA)

1. PRACTICE STANDARDS

- The YA zealously represents the expressed interests of the youth;
- The YA represents and protects the youth's expressed cultural needs;
- The YA represents the youth in accordance with the Code of Professional Responsibility, S.C.R.A. 16-101 et. seq. NMSA 1978, and all other applicable laws;
- The YA represents the youth in accordance with the confidentiality requirements of the New Mexico Children's Code (Section 32A-4-33).

2. TRAINING STANDARDS

- The YA participates in at least ten (10) hours of relevant annual training. (*See attachment*).

3. CONTACT AND CONTINUITY OF COUNSEL STANDARDS

After consultation with the youth/client:

- The YA contacts the youth in advance of custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, and other court proceedings to ascertain the need for witnesses or other evidence to be presented; the YA contacts the youth prior to mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children's Code;
- The YA counsels the youth, in a manner understandable to the client, on the subject matter of the litigation, the rights of the custodial and non-custodial parent, the court system, the proceedings, the YA's role, and what to expect in the legal process;
- The YA explains court orders and their consequences to the youth;
- The YA is accessible to the youth through office hours, telephone/voice mail, fax, or email;
- The YA attends treatment team meetings, administrative hearings, Citizen Review Board meetings, and other conferences and staffings concerning the youth, whenever appropriate;

- The YA discusses with the youth the nature of an appeal. If the appeal has merit, the YA takes all necessary steps to perfect the appeal and seeks appropriate temporary orders or extraordinary writs to protect the interests of the child during the pendency of appeal;
- Whenever an appeal is taken, the YA enters an appearance and YA representation continues through any appellate proceedings unless representation is otherwise arranged;
- If there is no appeal, YA representation continues through dismissal unless removed or relieved by the court;
- At cessation of representation, the YA discusses the end of the legal representation and determines what contacts, if any, he/she and the youth will continue to have.

4. STANDARDS FOR GATHERING AND REVIEWING INFORMATION

After consultation with the youth/client:

- The YA is responsible for gathering and reviewing information, including:
 - Interviews with the youth, foster parents and other caretakers, caseworkers, and service providers; and interviews as appropriate with the parents, school personnel, neighbors, relatives, clergy, law enforcement, and others;
 - Contact with lawyers for other parties and the CASA;
 - Review of the youth's, respondent's, and family's social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case, including placement records, as available;
 - Review of the court files of the youth, respondent, and family; and case-related records of the social service agency and other service providers; and
 - Review of photographs, videos, or audiotapes and other evidence.
- The YA obtains the necessary authority for the release of information; and
- The YA personally observes the youth's interaction with parents, or with whomever the youth may be reunited, when reunification is anticipated, as needed.

5. CASE PLANNING STANDARDS

After consultation with the youth/client:

- The YA consults with the social worker, and health care, mental health care, and other professionals involved with the youth's service plan;
- The YA requests services (by court order if necessary) to meet the youth's needs, to protect the youth's interests, and to ensure a comprehensive service plan. These services may include but are not limited to:
 - Screening and diagnostic services
 - Family preservation or reunification services;
 - Home-based services;
 - Sibling and family visitation;

- Child Support;
 - Domestic violence prevention, intervention and treatment;
 - Medical and mental health care;
 - Drug and alcohol treatment;
 - Parenting education;
 - Semi-independent and independent living services;
 - Long-term foster care;
 - Termination of parental rights action;
 - Adoption related services;
 - Education;
 - Recreational or social services;
 - Housing;
 - Special education and related services; and
 - Supplemental security income (SSI) to help support needed services.
- The YA determines the appropriateness of the youth and/or the YA attending local Citizen Review Board hearings concerning the youth; if neither the youth nor YA attend, the YA forwards to the board a letter stating the youth's status during the period since the last review and an assessment of CYFD's permanency and treatment plans;
 - The YA monitors implementation of the case plan;
 - The YA communicates with the Court-Appointed Special Advocate (CASA); and
 - The YA communicates to the Court the youth's position on the service plans for the youth and respondent; issues about the youth's placement; and the youth's goals.

6. COURT PERFORMANCE STANDARDS

After consultation with the youth/client:

- The YA participates in custody hearings, adjudicatory hearings, dispositional hearings, judicial reviews, permanency hearings, other court proceedings, and mandatory pre-adjudicatory and pre-permanency meetings scheduled in accordance with the provisions of the Children's Code;
- The YA reports to the court on the youths' compliance with prior court orders and treatment plans;
- The YA presents evidence of the reasonableness or unreasonableness of the Department's efforts and on alternative efforts that could have been made;
- The YA participates in mediation;
- The YA stays informed of the youth and family's involvement with family group decision making, family drug court, and other court sanctioned programs;
- The YA files petitions, motions, and responses and makes objections as necessary to represent the youth. If appropriate, the YA files briefs in support of evidentiary

issues. During all hearings, the YA preserves legal issues for appeal, as appropriate. Relief requested may include but is not limited to:

- Obtaining necessary services;
 - A mental or physical examination of a party or the youth;
 - A parenting, custody, or visitation evaluation;
 - An increase, decrease, or termination of contact or visitation;
 - Requesting, restraining, or enjoining a change of placement;
 - Contempt for non-compliance with a court order;
 - Termination of the parent-child relationship;
 - Child support;
 - A protective order concerning the youth’s privileged communication or tangible property; and
 - Dismissal of petitions or motions.
- The YA presents and cross examines witnesses, offers exhibits, and provides independent evidence as necessary;
 - The YA prepares the youth to testify; the YA familiarizes the youth with court procedures, and what to expect during direct and cross-examination;
 - The YA requests orders that are clear, specific, and, where appropriate, include a time line for assessment, services, and evaluation;
 - The YA reviews all written orders to ensure that they conform with the court’s verbal orders and statutorily required findings and notices;
 - The YA monitors the implementation of the court’s orders and reports any noncompliance;
 - If appropriate, the YA makes a closing argument and provides proposed findings of fact and conclusions of law. The YA ensures that a written order is entered;
 - The YA works diligently to avoid continuances and reduce delays in court proceedings.

Attachment
RECOMMENDED TRAINING CONTENT

At a minimum, the requisite training programs, including mentoring, should address:

- Relevant federal and state laws and agency regulations;
- Relevant court decisions and court rules;
- Court process and key personnel in child and family related litigation;
- Applicable guidelines and standards for representation;
- Child development needs and abilities;

- Family dynamics and dysfunction including substance abuse and the use of kinship care;
- Accessing services such as family preservation, medical, educational, and mental health resources for child clients and their families, including placement, evaluation/diagnostic, and treatment services; the structure of the agencies providing services, as well as provision and constraints related to agency payment for services; and
- Policy and procedure re: the multidisciplinary input required, including information on local experts who can provide consultation and testimony on the reasonableness and appropriateness of effort made to safely maintain the child in his or her home.