

Practice Standards

September 26, 2018

Section XXIII, Representation of CASA/GAL in Dependent/Neglect Cases

Note: OPD is currently not responsible for providing representation in these cases.

2. CASE PREPARATION:

A. Duties of Counsel for CASA/GAL and Scope of Representation

- a. Counsel for a CASA/GAL shall participate in any proceeding concerning the child and which involves the CASA/GAL with the same rights and obligations as any other attorney for a party to the proceeding.
- b. The duties of counsel for a CASA/GAL include, but are not limited to:
 - i. Taking all steps reasonably necessary to represent the CASA/GAL in the proceeding, including but not limited to: preparing for and participating in negotiations and hearings, drafting and submitting motions, memoranda and orders, and such other steps as established by the applicable standards of practice for attorneys acting on behalf of CASA/GAL in this jurisdiction;
 - ii. Communicating with the CASA/GAL prior to each hearing; and
 - iii. Representing the CASA/GAL in all proceedings affecting the issues before the court.

B. Following appointment counsel shall actively represent the CASA/GAL at all stages of the proceeding. When counsel becomes aware of the assignment, counsel shall communicate with the CASA/GAL as soon as possible and sufficiently before any scheduled hearing or proceeding, including the show cause hearing, to permit effective preparation.

C. Counsel shall maintain the attorney-client privilege with the understanding that counsel represents the CASA/GAL alone and not the youth, his/her parents or guardians, or the Department of Public Health and Human Services. The potential for a conflict of interest should be clearly recognized and acknowledged. Counsel should inform all parties that he/she is counsel for the CASA/GAL and that in the event of a disagreement between a child, parent or guardian, or the Department of Public Health and Human Services, and the CASA/GAL, counsel is required to serve exclusively the interest of the CASA/GAL.

D. The Montana Rules of Professional Conduct govern the obligations of counsel for a CASA/GAL

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- E. Duration of Appointment:
 - a. Counsel for a CASA/GAL shall continue to represent the CASA/GAL at all stages of the proceeding, until appropriately discharged, or the case is dismissed and/or the youth at issue has aged out of the DN process.

- F. Counsel for CASA/GAL may not waive child's right to counsel at any court proceedings.