

ATTACHMENT 2A SCOPE OF LEGAL SERVICES PROVIDED TO CLIENT

1. Attorney competency requirements

Dependency counsel competency and continuing education requirements would be as outlined in California Rules of Court, Rule 5.660 at http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_660.

2. Scope of legal services provided to Client

The following description of counsel's responsibilities and actions is presented as an outline of what constitutes thorough and professional representation. An individual case will rarely require all of the activities enumerated. Underlying each activity is the expectation that the attorney will possess knowledge and understanding of current statutes, rules of court, relevant case law, and the policies inherent within them.

A. Maintain ongoing client contact

1. Meet with the client before each court hearing;
2. Personally explain to the client, in a developmentally appropriate manner, what the Court is deciding and what alternatives might be available; elicit the client's preferences, advise the client, and discuss what will happen next;
3. Observe the parent's interaction with the child(ren), after obtaining permission from opposing counsel;
4. Contact the client in the event of an emergency or significant case-related event; and
5. Be accessible to the client through office hours, telephone/voicemail, fax, e-mail or home/school/office visits.
6. Additional duties of child's counsel:
 - a. Visit the child at each new placement, whenever feasible; and
 - b. Personally visit with the child in a non-court setting before each court hearing.
7. Additional duties of parents' counsel:
 - a. Investigate and evaluate the parents' environment (home, relative home, shelter, etc.); and
 - b. Be alert to any special needs of the parent related to his or her ability to understand and participate in the court process, including making a determination as to whether or not a *guardian ad litem* is necessary.

B. Conduct thorough, continuing, and independent investigations and interviews necessary to ascertain the facts, which may include, but is not limited to:

1. Obtaining any required authorizations for the release of information;
2. Reviewing the client's social services, public assistance, psychiatric, psychological, drug and alcohol, medical, law enforcement, and school records; taking any additional steps necessary to gain access to those records that may not be in existing or open files;

3. Making all efforts to investigate the appropriateness of a medication request and provide input to the court whenever possible;
4. Reviewing court file and case-related records of the social services agency and other service providers;
5. Interviewing school personnel, caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians, and law enforcement officers;
6. Contacting and meeting with child welfare workers who are presently or were previously interacting with the client or other family members, including the child welfare worker who will provide the next report to the Court;
7. Contacting counsel for other parties;
8. Contacting any non-attorney *guardian ad litem* or Court Appointed Special Advocate (CASA) appointed in the case to obtain background information;
9. If additional information suggests, contacting other professionals and lay witnesses who may identify alternative potential placements and services;
10. Eliciting the client's preferences, advising the client, and giving guidance in a developmentally appropriate manner (regarding placement, visitation/contact, or agency recommendations);
11. Identifying individuals in the child's life to maintain consistent connections and possibly serve as alternate caretakers;
12. Reviewing photographs, video or audio tapes, and other relevant evidence; and
13. Attending treatment and placement conferences and placement staffing.
14. Additional duties of child's counsel:
 - a. Contact and meet with parents/legal guardians of child(ren), with permission of their attorney;
 - b. Upon being appointed by the Court, investigate the interests of the child beyond the scope of the proceedings and report to the Court, subject to any legal privileges, any other interests of the child that may need to be protected by the institution of other administrative or procedural hearings.

These interests include, but are not limited to:

- School/education issues;
- Special education or developmental services;
- Child support;
- Personal injury;
- Mental health proceedings;
- Immigration;
- Social security or public assistance payments; and
- Medical issues.

- c. Attend Welfare and Institutions Code section 241.1 hearings if the child is a dependent with a new delinquency petition pending or if the child is a ward and the subject of a new dependency petition; advocate for dependency or dual jurisdiction as appropriate.
15. Additional duties of parents' counsel:
 - a. Contact and meet with counsel for the child to determine child's wishes versus parents' interpretation of child's wishes;
 - b. Emphasize what is expected of the parent and the consequences for failing to complete the terms of the case plan;
 - c. Stress the need for the parent to communicate to counsel any questions about the case plan or problems in fulfilling its requirements; and
 - d. Respond to all communications from client (e.g., phone messages, email, etc.).
- C. File pleadings, including petitions, motions, responses, or objections, as necessary to represent the client. Requested relief may include, but is not limited to:
 1. Obtaining necessary services or assistance for the family;
 2. A mental or physical examination of the client;
 3. A parenting, custody, or visitation evaluation of the client;
 4. An increase, decrease, or termination of contact or visitation;
 5. Requesting, restraining, or enjoining a change of placement;
 6. Contempt for non-compliance with a court-order;
 7. Termination of a child-parent relationship;
 8. The administration of psychotropic medications;
 9. Restraining orders;
 10. Motions to Quash a child's testimony;
 11. A protective order concerning the client's privileged communication or tangible property;
 12. Dismissal of petitions or motions; and
 13. 388 motions to reinstate parental rights.
- D. Seek appropriate services (by court order if necessary) to access entitlements, to protect the client's interest, and to advocate for a comprehensive service plan.
 1. Attorney advocacy may include, but is not limited to:
 - a. Family preservation and related prevention and reunification services;
 - b. Advocating placement with siblings;
 - c. Sibling and family visitation;
 - d. Maintaining connection with relatives or non-related extended family members (NREFM) and community ties;

- e. Child support: including advising parents on their rights and responsibilities regarding child support and filing parentage inquiries;
 - f. Domestic violence prevention and treatment;
 - g. Medical and mental health care;
 - h. Drug and alcohol treatment;
 - i. Parenting education;
 - j. Transitional and independent living services and plan;
 - k. Adoption services;
 - l. Education;
 - m. Recreational or social services;
 - n. Housing;
 - o. Long-term foster care or Another Planned Permanent Living Arrangement; (parent's counsel may advocate for Individualized Permanent Plans for child(ren) in lieu of adoption/guardianship); and
 - p. Post-adoption agreement referral.
2. Agencies (i.e. school districts, housing authority, etc.) may be joined in the dependency action if there are problems with the services being provided;
 3. Counsel should request services even if no hearing is scheduled. If direct informal requests to treatment providers are unsuccessful, counsel should file a motion related to necessary services.
 4. Counsel should advocate for services for clients with special needs, such as physical, mental, or developmental disabilities. These services may include, but are not limited to:
 - a. Special education and related services;
 - b. Supplemental security income (SSI) to help support needed services;
 - c. Therapeutic foster and group home care;
 - d. Residential/in-patient and outpatient psychiatric treatment; and
 - e. Regional center services.
- E. Negotiate settlements/mediations
1. Initiate and participate in settlement negotiations to seek an expeditious resolution of the case, avoiding continuances and delays; and
 2. Attempt to settle any contested issues by initiating and participating in settlement negotiations, including mediation.
- F. Hearings
1. Attend and participate in all hearings related to the dependency matter;
 2. Report to the court on the child's adjustment to placement, social services' and the parent's compliance with prior court orders and treatment plans, and child/parent interactions during visitation and other contact;

3. Present and cross-examine witnesses, offer exhibits, and provide independent evidence;
4. Prepare and submit trial briefs prior to contested hearings;
5. Be prepared to endorse, challenge, and amplify any reports submitted to the Court;
6. Ensure that the record reflects objections, reasoning, waivers, and the evidence upon which the court relies, and that it preserves issues for appeal;
7. If a continuance is sought, prepare a written motion under Welfare and Institutions Code section 352; and
8. At the conclusion of the hearing, if appropriate:
 - a. Make a closing argument and provide proposed findings of fact and conclusions of law;
 - b. Request orders that are clear, specific, and where appropriate, include a timeline for assessment, services, placement, and evaluation of the child and/or family;
 - c. Ensure that a written order is entered; and
 - d. Review all written orders to advocate for the orders to conform to the Court's verbal orders and statutorily required findings and notices.
9. Additional duties of child's counsel:

Pursuant to Welfare and Institutions Code section 349, the child has a statutory right to be present at the hearing:

 - a. A child's presence at a hearing should be based upon an individual determination of the child's willingness to attend, age, and maturity;
 - b. A child's presence at a hearing should be based upon consultation with the child, therapist, caretaker, or any other knowledgeable adult in determining the effect of the child being present at the hearing; and
 - c. Consider the Court facilities and how children attending hearings are accommodated.
10. Additional duties of parents' counsel:

If appointed by the Court to do so, represent the client at a judicial hearing set (under Welfare and Institutions Code section 903.45(b)) to resolve a dispute over the client's ability to pay for the cost of court-appointed counsel.
11. Prepare client to testify as a witness
 - a. Consult with client and determine whether s/he should testify;
 - b. Prepare the client to testify;
 - c. Protect the client by making appropriate objections; and
 - d. Ensure that questions are appropriate (developmentally and linguistically).

- e. Additional duties of child's counsel:
 - (i) Determination of calling the child as a witness:
 - Consider the child's need or desire to testify;
 - Weigh the likely consequences of having the child testify;
 - Determine the necessity of the child's direct testimony;
 - Determine if there is any other evidence or hearsay exceptions that may eliminate the need for direct testimony;
 - Determine the child's developmental ability to provide direct testimony and withstand possible cross-examination; and
 - Consider available alternatives to in-court testimony as specified in Welfare and Institutions Code section 350(b).
 - (ii) Child as a witness:
 - Prepare the child to testify:
 - a. Familiarize the child with the courtroom, court procedures, and what to expect during direct and cross-examination;
 - b. Make an effort to advocate for your client (including making objections) that testifying will cause minimum harm to the child;
 - c. If possible, conduct the direct testimony of the child; and
 - d. Object to questions that are not developmentally appropriate and/or not phrased in a syntactically and linguistically appropriate manner.
 - (iii) Challenges to child's testimony/statements: If necessary, prepare expert testimony to establish competency or reliability or to rehabilitate any impeachment.

G. Appeals and Writs

1. Appeals:

- a. Consider and discuss with the client, as developmentally appropriate, the right to appeal, the ramifications of an appeal (including delaying implementation of services or placement), and the likely result of an appeal;
- b. If, after a thorough discussion, the client wishes to appeal, file a notice of appeal (JV -800 or JV-800S);
- c. Seek appropriate orders and extraordinary writs necessary to protect the interests of the client during the pendency of the appeal;
- d. If child's trial counsel, seek separate appellate counsel as appropriate pursuant to rule 5.661;
- e. If permitted by the Court of Appeal, participate in the appeal, even if filed by another attorney, unless discharged;

- f. Keep the client informed of the progress of the appeal, to the extent possible; and
 - g. Once a decision is rendered, explain the result to the client, and discuss any additional appellate remedies that may be available as well as what will happen next in juvenile court.
 - h. Withdrawal: If the appeal would be frivolous or counsel lacks the necessary experience or expertise, counsel should notify the court and seek to be discharged or replaced.
 2. Writs when a Welfare and Institutions Code Section 366.26 hearing is set:
If reunification services are not offered or are terminated, and a Welfare and Institutions Code section 366.26 hearing is set, or a 366.26 hearing is set under any other circumstances, consider and discuss with the client, as developmentally appropriate, writ rights and procedures under rules 8.450 and 8.452 of the California Rules of Court;
 - a. If the writ is to be sought, file the Notice of Intent (JV-820) once the adult client has signed it;
 - b. If the adult client is not available to sign the notice, request the Court of Appeal to permit counsel to sign on behalf of the absent client.
 - c. If representing the child, sign and file JV-820 on behalf of the child;
 - d. Ensure that the Notice of Intent is filed in a timely manner, following the requirements in Rule 8.450;
 - e. If inexperienced in preparing writs, consult with, or seek assistance from colleagues familiar with the procedures and requirements;
 - f. Prepare and submit the writ petition, following the timeline requirements in Rule 8.452 ;
 - g. Attend and participate in any scheduled oral argument, if it is in the client's interests to do so; and
 - h. Once a decision is rendered, explain the result to the client, and discuss additional remedies that may be available as well as what will happen next in the juvenile court;
 3. Writs under 366.28, and in other circumstances:
 - a. After termination of parental rights, a writ petition may be filed to challenge placement or removal orders, pursuant to 366.28. To file a notice of intent and a writ petition for this situation, follow the procedures in Rules 8.454 and 8.456.
 - b. Consider the writ procedure even if a hearing under section 366.26 is not set and the 366.28 procedures do not apply, if an appeal will not lie, or the circumstances require prompt action.
- H. Ongoing representation in non-minor dependent cases
 1. Attorneys for the child must continue to represent the child throughout the life of the case, including if the child becomes a non-minor dependent.

2. Attorneys for the parent must continue to represent the parent in non-minor dependent cases, if the parent is receiving family reunification services.
 3. Attorneys for the child must resume representation if, after the case has been dismissed, the court resumes jurisdiction over the child as a non-minor dependent, under 388(e) ("re-entry" cases).
- I. Cessation of Representation:
1. Discuss the end of legal representation and what contacts, if any, the client and the attorney will continue to have;
 2. Ensure the client has contact numbers for social services or other emergency services.

End of Attachment 2A