

Arizona Supreme Court No. R-15-0040
Page 2 of 4

TO:
Rule 28 Distribution
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ATTACHMENT

Rule 40.2 Duties and Responsibilities of Appointed Counsel for Parent Representation

A. The attorney must promptly identify any potential and actual conflicts of interest that would impair his or her ability to represent the parent. The attorney must, if necessary, move to withdraw. An attorney must not accept more cases than he or she can ethically handle.

B. The attorney must inform the parent of the attorney's role and ethical obligations, including the concepts of privilege and confidentiality.

C. The attorney must review the allegations of the dependency petition and explain to the parent the nature of the proceedings including terminology, timelines and courtroom protocol, his or her legal rights regarding the dependency action, various parties and participants associated with the action, ways that the parent can affect case outcomes, consequences of the parent not attending hearings, and possible consequences of being placed on the DES Central Registry.

D. The attorney must explain all requirements outlined in the case plan and court orders.

E. The attorney must, as required, participate in discovery, file pleadings, subpoena witnesses, provide the parent with disclosure and court documents and develop the parent's position for each hearing. The attorney must ensure the court is notified when an interpreter is needed. If a parent is incarcerated, the attorney must ensure that the proper notice or motion is filed with the court in order for the parent to participate in the hearing. The duties of the attorney include advocating for appropriate services for the parent and explaining the procedural and substantive status of their case.

F. The attorney must communicate with the parent before the preliminary protective hearing, if possible or soon thereafter. The attorney must establish procedures for regular communication with a client. Prior to every substantive hearing, the attorney must communicate with the parent and must reply to communications from a client in a timely manner.

G. Attorneys must be familiar with the child and public welfare systems, and community-based organizations serving parents and how services are accessed. Examples of such services are behavioral health, substance abuse treatment, domestic violence services, developmental disability, health care, education, financial assistance, counseling support, family preservation, reunification and permanency services.

Attorneys must be familiar with the substantive juvenile law. Attorneys must stay abreast of changes and developments in relevant federal and state law and regulations, Rules of Procedure for the Juvenile Court and case law. Attorneys must complete an introductory six (6) hours of

court approved training prior to their first appointment unless otherwise determined by the presiding judge of the juvenile court for good cause shown and an additional two (2) hours within the first year of practice in juvenile court. All attorneys must complete at least eight (8) hours each year of education and training specifically on juvenile law and related topics such as child welfare policy and procedures, substance abuse and addiction, mental illness and treatment options, psychological evaluations (how to read), domestic violence, the effects of trauma, cultural awareness, social issues surrounding families involved in the dependency process, motivational interviewing, child and adolescent development (including infant/toddler mental health), the effects of parental incarceration, the Indian Child Welfare Act, parent and child immigration issues, the need for timely permanency, and other training concerning abuse and/or neglect of children. Some or all of this training and continuing education may qualify as mandatory Continuing Legal Education under State Bar of Arizona requirements.

Attorneys must provide the presiding judge of the juvenile court with an affidavit of completion of the six (6) hour court approved training requirement prior to or upon their first appointment as attorney or guardian ad litem for a parent after the adoption of these standards unless a waiver of this requirement has been obtained from the presiding judge of the juvenile court in which the appointment is to be made. The affidavit of completion must include a list of courses including the name of the training, the date of the training, the training provider and the number of hours for each course.

All attorneys must file annually an affidavit with the presiding judge of the juvenile court certifying their compliance with this section. Such affidavit must be filed concurrently with the affidavit of compliance with State Bar MCLE and must include a list of courses including the name of the training, the date of the training, the training provider and the number of hours for each course.