Draft of Attorney Best Practice Guidelines for Parent Representation

Pursuant to Article VI, Section 3, of the Arizona Constitution, the following Best Practice Guidelines for Dependency Cases (the Guidelines) are issued under the authority of the Supreme Court of the State of Arizona. All attorneys who represent parents and all attorneys appointed as guardian ad litem for parents in dependency cases in the State of Arizona shall adhere to these Guidelines. Privately retained attorneys shall become familiar with these Guidelines. In developing the Guidelines, the Court considered input from system partners in attendance at the *Hearing Their Voices – A Discussion About Parent Representation Symposium*, that was held September 26, 2013, best practices within Arizona and well-accepted standards developed by nationally recognized organizations. In particular, the standards for representation outlined in the American Bar Association's *Standards for Parent Representation*, and the *Resource Guidelines* published by the National Council for Juvenile and Family Court Judges were instructive in developing the Standards for Arizona. In addition to adhering to the Standards for Dependency, Arizona attorneys and guardians ad litem should be familiar with and consult these national standards and references to ensure the highest standard of practice in this important area of the law.

Arizona Courts shall have broad discretion in enforcing the Guidelines and to impose sanctions when appropriate. Attorneys providing representation in Arizona may also be subject to sanctions under the Arizona Rules of Professional Conduct for failure to adhere to the Standards. Sanctions may include the removal of the attorney or guardian ad litem from a particular case or from representation of parents for a period of time.

A. The attorney shall promptly identify any potential and actual conflicts of interest that would impair his or her ability to represent the parent. The attorney shall, if necessary, move to withdraw.

B. The attorney shall make clear to the parent the attorney's role and ethical obligations, including the concept of privilege and confidentiality.

C. The attorney shall review the allegations of the dependency petition and clearly 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 shall clearly explain all requirements outlined in the case plan and court orders.

E. The attorney shall participate in discovery, file pleadings when appropriate, subpoena witnesses, provide the parent with disclosure and court documents and develop the parent's position for each hearing. The attorney shall ensure the court is notified when an interpreter is needed. If a parent is incarcerated, the attorney shall 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.

F. The attorney shall meet with the parent and have meaningful communication with the parent before the preliminary protective hearing, or as soon thereafter as possible. Prior to every substantive hearing, the attorney shall have meaningful communication with the parent, including the procedural and substantive status of the case. The attorney should reply to communication from a client in a timely manner. The attorney shall establish regular and understandable procedures for communication with a client.

G. The attorney may use appropriately trained support staff to assist in the performance of the duties listed herein unless otherwise required by law. The support staff performing these duties must adhere to these standards. Attorneys shall examine whether they can ethically handle the number of cases they have.

H. Attorneys shall 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.

~~I.~~ Attorneys shall be familiar with the substantive juvenile law. Attorneys shall 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 shall 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 shall 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 shall 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 shall 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 shall file annually an affidavit with the presiding judge of the juvenile court certifying their compliance with this section. Such affidavit shall be filed concurrently with the affidavit of compliance with State Bar MCLE and shall 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.