SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
ADMINISTRATIVE ORDER 25-05

Post-Commitment Juvenile Attorney Practice Standards

WHEREAS, the District of Columbia Family Court Act of 2001, Pub. L. 107-114, 115 Stat. 2100 (2002) provides that the Superior Court shall establish standards of practice for attorneys appointed as counsel in matters under the jurisdiction of the Family Court of the Superior Court; and

WHEREAS, the Attorney Practice Standards for Post-Commitment Juvenile Attorneys have been developed and approved by the Family Court; and

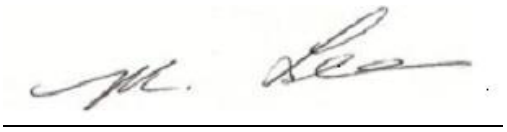
WHEREAS, the Attorney Practice Standards for Post-Commitment Juvenile Attorneys are intended to define the role and responsibilities of counsel and improve the quality of representation for respondents in juvenile delinquency cases whom the Family Court has committed to the Department of Youth Rehabilitation Services;

NOW THEREFORE, it is by the court,

ORDERED, that the Attorney Practice Standards for Post-Commitment Juvenile Attorneys shall take effect on the date of this order and shall govern practice of counsel for respondents in the post-commitment stages of Family Court delinquency cases.

SO ORDERED.

DATE: February 13, 2025



Milton C. Lee, Jr.
Chief Judge

Copies to:

Judicial Officers
Executive Officer
Clerk of the Court
Office of General Counsel
Division Directors
District of Columbia Bar
Daily Washington Law Reporter
Library

Superior Court of the District of Columbia
Family Court

Attorney Practice Standards
For Post-Commitment Juvenile Attorneys

Submitted to Milton Lee, Jr., Chief Judge
Superior Court of the District of Columbia

By

Darlene M. Soltys, Presiding Judge, Family Court

Table of Contents

A. Panels, Appointment, Certification, and Training 6
A-1 Application for Appointment to the Post-Commitment Juvenile Attorney Panel 6
A-2 Initial Training Requirements and Exemptions 7
A-3 Continuing Legal Education Requirements for Attorneys 8
B. General Duties 8
B-1 Reasonable Diligence and Promptness 8
B-2 Case Management 8
B-3 Case Organization 9
B-4 Court Appearances 10
C. Attorney-Client Relationship 10
C-1 Protecting Confidentiality of Communication and Proceedings 10
C-2 Meeting with the Client 10
C-3 Barriers to Communication with Client 10
C-4 Preparing for and Conducting the Initial Client Interview 10
C-5 Ongoing Communication 11
C-6 Advising the Client 11
C-7 Distinguishing Between Client and Attorney Decisions 12
C-8 Respecting Client Decisions 12
D. Stages of the Post-Commitment Case 12
D-1 Information and Investigation 12
D-2 Placements, Supervision, and Services 13
D-3 Sanctions and Revocation 14
D-4 Reentry 14
D-5 End of Commitment 14
E. Specific Hearings, Proceedings, and Meetings 15
E-1 Community Status Review Hearings 15
E-2 Team Meetings 17
E-3 Disciplinary Hearings 17
E-4 Article VI Hearings 17
E-5 Court Hearings 18
F. Effective Date 18

ACKNOWLEDGEMENTS

Consistent with the goals of the Family Court of the District of Columbia (hereafter "Family Court"), the Court adopted practice standards for the Counsel for Child Abuse and Neglect (CCAN) panel attorneys in February 2003 (Administrative Order 03-07), for juvenile panel attorneys in 2004 (Administrative Order 04-13), for Special Education Panel Attorneys in 2009 (Administrative Order 09-03), and for Mental Habilitation Panel Attorneys in 2015 (Administrative Order 15-17).

This document, the Superior Court of the District of Columbia Attorney Practice Standards for Post-Commitment Juvenile Attorneys, continues the goal of setting standards for all Family Court practitioners and sets the standards for the Post-Commitment Juvenile Attorney Panel.

A debt of gratitude is owed to Judge Jennifer Di Toro, whose leadership was instrumental in ensuring that Family Court standards and training were developed and implemented to maintain the highest level of representation in all Family Court matters. The standards were drafted and approved by members of the Superior Court and the Post-Disposition Working Group at the Council for Court Excellence, and were reviewed and approved by Chief Judge Milton Lee, Jr.

The Court gratefully acknowledges all the individuals whose expertise and knowledge were invaluable to the completion of this document, particularly the following individuals and organizations:

Darlene M. Soltys
Presiding Judge
Family Court

Current and former members of the Council for Court Excellence
Post-Disposition Working Group:

Aisha Braithwaite Flucker, Department of Youth Rehabilitation Services
Sarah Comeau, Office of the Attorney General
Jennifer Di Toro, former Presiding Judge
Duane Kokesch, Office of the Attorney General
Paul Lee, Steptoe & Johnson
Whitney Louchheim, Open City Advocates
Hannah McElhinny, Public Defender Service for the District of Columbia
Jaime Michel, National Juvenile Defender Center
Joshua Miller, Open City Advocates
Brittany Mobley, Public Defender Service for the District of Columbia
Raymond Ngu, Open City Advocates
Sosseh Prom, Council for Court Excellence
Penelope Spain, Open City Advocates
Veena Subramanian, Open City Advocates

Julie Swaney, CJA Juvenile Panel

Magdalena Tsiongas, Council for Court Excellence
Jennifer Ubiera, Council for Court Excellence

Superior Court of the District of Columbia, Family Court Attorney Practice Standards for Post-Commitment Juvenile Attorneys

Executive Summary

Post-commitment advocacy is one of the most important aspects of an attorney's role in juvenile delinquency cases. The quality of legal representation is critical to the effective administration of justice. To render high quality representation, attorneys handling post-commitment juvenile cases in the Family Court of the Superior Court of the District of Columbia must be well trained and informed regarding procedural and substantive law, and cognizant of adolescent development, trauma, and mental health issues affecting their clients. Furthermore, establishing and maintaining a trusting relationship with a client is the foundation of quality representation. These practice standards define the role of counsel in juvenile cases after the Family Court has committed the respondent to the Department of Youth Rehabilitation Services (DYRS), and may be used for evaluating the performance of counsel.

Basic Functions of the Post-Commitment Juvenile Attorney

These practice standards address the general authority and duties of attorneys appointed to represent youth whom the Family Court has committed to DYRS in juvenile cases, and to define the overall objectives that counsel should seek to achieve. The paramount obligation of defense counsel in the administration of justice, and as an officer of the court, is to serve as their client's counselor and zealous advocate and to render effective, quality representation. Moreover, defense counsel should ensure that the interests and rights of juveniles are fully protected and advanced. Under these standards, attorneys shall only accept an appointment or otherwise represent youth committed to DYRS if they are knowledgeable of substantive and procedural juvenile law, are familiar with DYRS policies, procedures, practices, administrative rules, and placement options, and have participated in the required training programs. Counsel must also know and adhere to applicable ethical opinions and standards and comply with relevant court and administrative rules. If counsel is unclear about how to resolve an ethical issue, they should seek guidance from other experienced attorneys or from the Office of Bar Counsel (www.dcbar.org). The fundamental obligations of counsel as set forth below are based on the District of Columbia Rules of Professional Conduct, the Superior Court Rules, and the National Juvenile Defense Standards.[1]

Responsibilities to Clients

Establishing and maintaining a trusting relationship with a client is the foundation of quality representation. These standards identify an attorney's responsibilities to his or her client to include:

[1] National Juvenile Defender Center, *National Juvenile Defense Standards*, 2012, retrieved from https://njdc.info/wp-content/uploads/2013/09/NationalJuvenileDefenseStandards2013.pdf.

- open, candid and on-going communication;
- thorough investigation of all necessary and relevant information;
- attempts to settle the case or relevant issues, through formal or informal negotiation;
- adequate pre-hearing preparation, to include an active pre-hearing motions practice;
- attendance and participation in meetings and hearings;
- post-hearing follow-up and review of administrative and court orders;
- assistance to clients with obtaining services or navigating the post-commitment system; and
- discussion with clients about appellate rights.

Statement of Intent

D.C. Code §16-2304(a) provides that a child alleged to be delinquent is entitled to be represented by counsel at all critical stages of proceedings in the Superior Court of the District of Columbia. Superior Court judges may appoint qualified attorneys to represent indigent juveniles named in delinquency proceedings under the Criminal Justice Act, D.C. Code §§ 11-2601 to 2608. To ensure legal representation for youth whom the Family Court has committed to DYRS, the Chief Judge established a panel of attorneys eligible to receive appointments in juvenile delinquency cases upon commitment to DYRS (the "Post-Commitment Juvenile Attorney Panel"). See Administrative Order 22-09.

The District of Columbia Family Court Act of 2001, Pub. L. 107-114, also provides for the Superior Court to establish standards of practice for attorneys appointed as counsel in matters under the jurisdiction of the Family Court. To accomplish the goals of the Family Court Act, and to promote high quality representation for youth committed to DYRS, panel attorneys must adhere to these practice standards. A panel attorney not in compliance with these standards may be subject to removal from the panel. Panel attorneys should also adhere to the Attorney Practice Standards for Representing Juveniles Charged with Delinquency or as Persons in Need of Supervision (the "Juvenile Practice Standards") where applicable. See Administrative Order 04-13.

A. Panels, Appointment, Certification, and Training

A-1 <u>Application for Appointment to the Post-Commitment Juvenile Attorney Panel</u>

Individual attorneys wishing to receive appointments as Post-Commitment Juvenile Attorneys in Superior Court shall be selected from the Family Court Post-Commitment Juvenile Attorney Panel. An attorney seeking to become a member of the Post-Commitment Juvenile Attorney Panel must: complete a Family Court Panel Application that sets forth their qualifications to act as a Post-Commitment Juvenile Attorney; provide a Certificate Regarding Discipline from the Office of the District of Columbia Bar Counsel; a letter or receipt from the District of Columbia Bar indicating payment of dues is up to date; and certify, in writing, that they have read and understand these standards, the District of Columbia Rules of Professional Conduct, Superior Court Rules and District of Columbia statutes governing juvenile proceedings, and related provisions of the D.C. Municipal Regulations including Chapter 12 (Community Placement of Juvenile Offenders) of Title 29 (Public Welfare).

After appointment to the Panel, Post-Commitment Juvenile Attorneys must comply with the initial training requirements, as set forth in Section A-2, and, once the attorney is appointed to their first case, the continuing legal education requirements, as set forth in Section A-3.

A-2 Initial Training Requirements and Exemptions

Attorneys admitted to the Post-Commitment Juvenile Attorney Panel must receive initial training from the Public Defender Service for the District of Columbia (PDS) prior to receiving appointments to particular cases. PDS shall, through its Special Counsel, certify in writing to the Oversight Panels Committee all new panel attorneys who have successfully completed training as set forth below.

To attain training certification, lawyers will be required to complete a minimum of fifteen hours of training as conducted by PDS or its designee.

The fifteen hours of training shall be devoted to the following categories:

(1) Court proceedings and DYRS administrative proceedings and rules;

(2) DYRS placements, structure, and services; and

(3) The role of the Post-Commitment Juvenile Attorney.

Training topics may include (1) secure facilities and out-of-state placements, (2) reentry planning, (3) community placement and supervision, (4) graduated sanctions, (5) disciplinary hearings at DYRS facilities, (6) Community Status Review Hearings, (7) writs of habeas corpus, (8) team meetings,[2] (9) community-based services, (10) restorative justice, (11) dual-jacketed youth, (12) collateral issues including education, (13) modifying and terminating commitment, and (14) record sealing. This list is illustrative, not exclusive.

As part of the training certification, each attorney must certify that they have visited DYRS's secure facilities. Attorneys are also encouraged to seek the advice and input of more experienced lawyers who have represented youth committed to DYRS.[3] Correspondingly, experienced attorneys are encouraged to provide mentoring to new attorneys, assist new attorneys in addressing client issues, and answer questions as they arise.

Exemption from Training Requirements

Lawyers who meet the following qualifications will be fully exempted from the above-listed training certification requirements: the lawyer (1) has represented youth in their commitment to DYRS continuously during the last two years before the training certification

[2] As of the publication date of these standards, DYRS refers to its team meetings as Team Decision Making Meetings.

[3] Attorneys can find experienced post-commitment lawyers at the Public Defender Service's Juvenile Services Program, the Juvenile Justice Clinic at Georgetown University Law Center, or Open City Advocates.

request; (2) can certify that they have completed 10 hours of the above-listed training within the last two years before the training certification request; and (3) has participated in at least three DYRS administrative proceedings in the last two years. Any exemption in this category is subject to approval by the Oversight Subcommittee.

A-3 Continuing Legal Education Requirements for Attorneys

Attorneys admitted to the Post-Commitment Juvenile Attorney Panel have a continuing obligation to stay abreast of changes and developments in the law and in DYRS policies and practices. In order to continue receiving appointments in post-commitment juvenile matters, Post-Commitment Juvenile Panel attorneys must complete ten hours of continuing legal education every year. At least five of these hours must relate to post-commitment juvenile representation; the remaining hours must be in accordance with Section A-2 of the Juvenile Practice Standards.[4] At or near the end of the calendar year, counsel must submit a Certificate of Completion listing the trainings counsel has attended during the calendar year to the CCAN Director.

B. General Duties

B-1 Reasonable Diligence and Promptness

An attorney representing a committed respondent has a duty to advance zealously the interests of the client. An attorney shall act diligently and promptly in the representation of clients. Counsel's obligations include the following:

- Counsel must understand the timelines for DYRS administrative hearings and appeals;
- Counsel should be particularly mindful to avoid unnecessary delay whenever the client is securely held or otherwise placed outside of the home, given the substantial harm that such delay could cause;
- Counsel must take steps to inform all parties when delay is unavoidable;
- Counsel should be punctual in attendance in court and DYRS proceedings; and
- Counsel must timely submit all motions and other papers to DYRS and to the Court.

B-2 Case Management

Counsel should not carry a workload that, by reason of its excessive size, interferes with the rendering of quality legal service, endangers the client's interest in the speedy resolution of post-commitment issues, or may lead to a breach of professional obligations. An attorney who is considering whether to act as counsel or to accept appointment by the Court must have sufficient time, resources, knowledge, and experience to offer quality legal services in the particular matter. If, after accepting an appointment, counsel is unable to offer effective representation, counsel should consider appropriate case law and ethical standards in deciding whether to move to withdraw or take other appropriate action.

[4] New panel attorneys shall have satisfied this requirement for the first year of admission to the panel. See Section A-2.

Counsel's obligations include the following:

1. Maintaining a working knowledge and familiarity with relevant local laws and regulations, including, but not limited to the statutes governing juvenile cases, DYRS, the Interstate Compact for the Placement of Children, the Interstate Compact for Juveniles, and Chapter 12 of Title 29 of the D.C. Municipal Regulations, as well as relevant case law which may bear on the client's rights;
2. Conducting a thorough investigation of all necessary and relevant information pertaining to the client's DYRS commitment via records requests, facility visits, and interviews with service providers, family members, and other persons with knowledge about the client's services and supervision, as well as through other means;
3. Participating in all hearings and team meetings to ensure that the client is zealously and effectively represented throughout the client's commitment;
4. Acquiring a working knowledge of potential placements and services;
5. Pursuing appropriate legal remedies in accordance with the client's wishes and as permissible by law;
6. Keeping the client informed about issues related to the client's commitment, placement, and services; complying with all reasonable client requests for information; and explaining options and proceedings sufficiently so that the client may make informed decisions;
7. Communicating regularly with all relevant persons and family members, including the client's DYRS caseworker, and, if the client is involved with multiple systems, the client's adult criminal attorney, the client's delinquency trial attorney, the client's education attorney, and/or the client's guardian ad litem, as well as the client's caseworker in the abuse or neglect case, such as the caseworker at the Child and Family Services Agency or a related agency;
8. Developing legal strategies for administrative proceedings and court hearings, including team meetings, disciplinary hearings, Community Status Review Hearings, habeas corpus hearings, appeals, and other such proceedings;
9. Preparing and filing all motions in a timely fashion; and
10. Promptly discussing with and advising the client about their right to appeal an unfavorable administrative or court determination.

B-3 <u>Case Organization</u>

Counsel shall maintain a client case file on each active case and, when appropriate, provide the case file to successor attorneys, as authorized by the client. All client case files must reflect the procedural history of the case and all other information necessary to render effective legal service, including copies of documents and records, discovery, administrative determinations, motions and court orders, community placement agreements, waivers, meeting notes, communications to and from the client and other relevant persons, the names and contact information of other relevant persons, and information on how to locate the client.

B-4 Court Appearances

If the client has another legal case, either a pre-disposition juvenile case or a neglect case, simultaneous with the committed case, the Post-Commitment Juvenile Attorney will regularly communicate about the matters with the trial attorney and/or Guardian ad Litem, as appropriate, and will make all reasonable efforts to attend the client's court hearings whenever necessary.

C. Attorney-Client Relationship

C-1 Protecting Confidentiality of Communication and Proceedings

When necessary, counsel should make the appropriate request to DYRS and facility staff, court officials, and others to provide necessary accommodations for private discussions between counsel and clients.

Counsel must be proficient in local laws governing the process of limiting the client's juvenile record from being accessed and distributed, as well as the civil and criminal consequences of wrongful disclosure of the client's records.[5] Counsel should disclose to the client and the client's parent or guardian the entities permitted by statute to access the client's arrest and court records. Counsel should place special emphasis on the collateral impact of arrest and court records. (See also Section D-5 End of Commitment regarding record sealing.)

C-2 Meeting with the Client

In instances where the client is committed to a secure facility, counsel should make every effort to conduct a follow-up interview within 48 hours of appointment to the case. Additional guidance on client communication is included throughout these standards (e.g., Section C-7).

C-3 Barriers to Communication with Client

An attorney encountering barriers to communicating with a client shall take whatever steps are necessary to ensure effective communication with the client, and may also contact DYRS General Counsel for assistance with getting in touch with the client as needed. An attorney shall ensure that the client understands the terms of the client's DYRS supervision and any proceedings related to the client's commitment. To this end, counsel must be mindful of any special needs of the client. Counsel must also secure appropriate expert services, such as an interpreter or translator.

C-4 Preparing for and Conducting the Initial Client Interview

Prior to conducting the initial interview, where possible, the attorney should be familiar with the client's case. At the initial interview, counsel should obtain a signed release from the

[5] *See* D.C. Code Ann. § 16-2331 to 2333.01 (2001).

client authorizing the attorney and/or the attorney's agent to obtain DYRS, educational, medical, or other relevant records. In addition, at the initial interview, counsel should endeavor to convey the following types of information to the client:

- The role of counsel (specifically noting the different roles of the post-commitment juvenile attorney and the juvenile trial attorney), the attorney-client privilege, and the limits to privileges covering the client's communications with counsel, therapists, caseworkers, social workers, and other relevant individuals;
- An explanation of what commitment to DYRS means, including DYRS's options and authority, the requirements and timelines relevant to client's current or pending placement, and upcoming proceedings and meetings;
- An introductory discussion of client's goals, not only related directly to the client's commitment to DYRS, but also including issues such as education, housing, employment, mental health, and collateral issues;
- An explanation of how counsel can be reached and the preferred means for contacting counsel;
- A discussion of the client's preferred means of communication; and
- A discussion of the next steps counsel will take on the client's behalf.

C-5 Ongoing Communication

Counsel has a duty to keep their client informed and maintain regular contact with them during the course of the client's commitment to DYRS, especially before meetings, administrative hearings, and court hearings and throughout any out-of-home placement.

To represent the client effectively throughout the client's commitment to DYRS, counsel must proactively stay informed about the case and maintain contact with the client and all relevant persons and family members, including the client's DYRS caseworker. For dual-jacketed youth, counsel should also maintain contact with the client's guardian ad litem, as well as the client's caseworker in the abuse or neglect case, such as the caseworker at the Child and Family Services Agency or a related agency.

Counsel should continue to discuss the client's goals throughout the client's commitment to DYRS. These discussions may include issues such as education, employment, housing, mental health, and other collateral issues. Counsel should be aware that the client's goals in these areas might shift over time, and counsel should be prepared to advocate for the client's wishes accordingly.

C-6 Advising the Client

Counsel should advise the client about all aspects of the client's commitment to DYRS, including candidly assessing the legal merits of particular strategies and any probable outcomes, as well as the broader implications of different outcomes on the client's long-term goals. Counsel should not intentionally understate or overstate the risks, hazards, or prospects of a particular legal strategy to exert undue influence on client's decisions. Counsel should keep the client informed of all significant developments in the client's commitment and should explain legal

rights and options to the client to the extent reasonably necessary to permit the client to make informed decisions regarding the course of the client's commitment and the representation.

C-7 Distinguishing Between Client and Attorney Decisions

Certain decisions relating to the conduct of the case are ultimately the province of the client, whereas others are ethically the responsibility of counsel. Decisions that are to be made by the client after full consultation with counsel include, but are not limited to:

- Decisions regarding placement and services, including whether to contest an out-of-state placement;
- Whether to accept the terms of a community placement agreement;
- Whether to dispute DYRS's imposition of sanctions;
- Whether to assert or waive any right or position of the client, including whether to waive a Community Status Review Hearing;
- Whether to admit the allegations related to a Community Status Review Hearing or disciplinary hearing;
- What defense should be mounted at a Community Status Review Hearing or disciplinary hearing;
- Whether to testify on their own behalf at a Community Status Review Hearing or disciplinary hearing;
- Whether to appeal an administrative or court determination; and
- Whether to participate in restorative justice circles or other types of mediation.

C-8 Respecting Client Decisions

Open, candid, and ongoing communication with the client is essential to effective representation. If, after thorough advising by counsel that permits the client to make an informed choice, the client and counsel disagree over the proper course of action, counsel shall not substitute personal judgment of what is best for the client over what the client expressly desires.

D. Stages of the Post-Commitment Case

Counsel might be appointed at any stage in the client's commitment, and the client's commitment could begin with any of the placements listed below. As noted above, counsel must be knowledgeable regarding local law and DYRS procedures and aware of all potential placements and services, so as to be able to ascertain quickly the most efficient and effective manner in which to proceed with the post-commitment representation.

D-1 Information and Investigation

Upon appointment to a case, the Post-Commitment Juvenile Attorney shall obtain a thorough understanding of the client's case. Counsel should request all court records and evaluations, recent school records, risk/needs assessments,[6] and DYRS records. Counsel shall

[6] As of this writing, DYRS uses a Structured Decision-Making (SDM) tool and the Youth Level of Service/Case Management Inventory (YLS/CMI) tool to determine the initial placement security level of low, medium, or high.

interview the client and other relevant persons such as the client's family (with the client's consent), the DYRS caseworker, and other social workers or caseworkers as applicable, such as the Child and Family Services Agency social worker and the guardian ad litem in dual-jacketed cases (i.e., clients with an active abuse or neglect case in addition to the delinquency case), or anyone else the client deems relevant.

D-2 Placements, Supervision, and Services

The client's placement, supervision requirements, and services will likely change throughout the client's commitment to DYRS. Counsel's duty is to help the client navigate those changes, to advocate for placements, supervision requirements, and services that the client wants, and to defend against placements, supervision requirements, and services that the client does not want. In accordance with the client's wishes, counsel must hold DYRS accountable to its statutory mandates related to DYRS's placement and supervision decisions.[7]

Supervision and Services

Counsel should ensure that the client understands the terms of DYRS's supervision requirements, as well as the possible ramifications for lack of compliance. Counsel should monitor the client's treatment and services to ensure that DYRS is affording the client due process and is treating the client fairly and in accordance with relevant policies. Counsel has a duty to independently collect information on the client's progress and to monitor whether service providers and/or facilities are adhering to DYRS policies and DYRS's individual service plan for the client. If in line with the client's expressed wishes, counsel must advocate for the client to receive the services contemplated by DYRS and/or the services contemplated by the court at the time of disposition. To the extent possible, counsel should advise the client before the client signs any agreement with DYRS, such as a Community Placement Agreement or a GPS monitoring agreement. If counsel is unable to advise the client before the client signs an agreement, counsel should request a copy of any such agreement from DYRS and should advise the client on the ramifications of the agreement.

Counsel should identify and consult with other attorneys as needed on collateral issues including education, housing, immigration, adult criminal matters, disability rights, behavioral health, and public benefits.

Placements

If the client is placed in a residential facility, group home, secure facility, or other out-of-home placement within the District of Columbia or within the D.C. Metropolitan area, counsel has an obligation to visit the client. If the client is placed outside of the Metropolitan Washington area, counsel shall maintain regular contact with the client either in person[8] or by phone or video conference. Counsel must reassure the client that counsel will continue to advocate on the client's behalf regarding post-commitment hearings, conditions of confinement, disciplinary

---

[7] *See* D.C. §§ 2-1515.01 to 2-1515.06.

[8] Reimbursement for travel more than 75 miles outside of the District of Columbia must be pre-approved by the calendar judge.

matters, reentry, and other legal issues. Counsel must immediately respond to issues or complaints regarding safety of the client or conditions of the client's confinement. Continued contact is especially important when the client is in a secure facility.

Whenever the client is placed outside of the home, counsel shall also maintain regular contact with staff at residential or secure facilities, group homes, etc. as well as with the DYRS caseworker. Counsel must communicate with DYRS to facilitate timely release from the facility, home visits, holiday passes, clothing vouchers, and parent travel vouchers, and should address other needs of the client to the extent practicable. Counsel must represent the client at all DYRS team meetings, and counsel should make every effort to participate in team meetings specific to the facility.

D-3 Sanctions and Revocation

Counsel must ensure that DYRS affords the client appropriate due process before imposing sanctions. For example, if DYRS imposes sanctions on the client, counsel should ensure that DYRS is not imposing more restrictive sanctions than outlined in DYRS's policies. Counsel must also ensure that DYRS affords the client appropriate due process (i.e., a Community Status Review Hearing) before increasing the security level of the client's placement, such as removal from a community-based placement. Counsel should also advocate for DYRS to consider graduated sanctions before initiating proceedings to remove the client from a community placement. Counsel must advise the client before the client signs a waiver of a Community Status Review Hearing. (See Section E-1 regarding Community Status Review Hearings.)

D-4 Reentry

In every instance when DYRS plans to release the client from a secure and/or out-of-state placement, counsel should actively engage in reentry planning prior to the client's release, ensuring that the reentry plan addresses all of the client's interests and rights. Counsel should address reentry issues and concerns with the client, including issues such as placement, education, employment, and behavioral health services. Counsel should then monitor the reentry implementation to ensure that DYRS follows the reentry agreement, in accordance with the client's wishes.

D-5 End of Commitment

Counsel should consider advocating for the early termination of the client's commitment, in accordance with the client's wishes, whenever feasible.[9] If the client is not receiving appropriate services or the appropriate level of placement from DYRS, counsel has a duty to petition the Court to modify the dispositional order and/or terminate the client's commitment.[10] In accordance with the client's wishes, counsel should also facilitate transitional and post-

[9] *See* D.C. Code § 16-2322(4).
[10] *See* D.C. Code § 16-2323(h) and § 16-2324(b).

commitment DYRS services for the client, including requesting that the DYRS caseworker make appropriate referrals for such services if the client so wishes.

Counsel must inform the client of available legal processes for sealing records. Counsel should ensure that the client's records are sealed when and if the client becomes eligible for sealing.[11]

E. Specific Hearings, Proceedings, and Meetings

Counsel should represent the client at all administrative hearings, team meetings, and court hearings related to the client's commitment to DYRS. These include institutional disciplinary hearings, Community Status Review Hearings (a.k.a. revocation hearings), team meetings, review hearings, Article VI court and agency hearings, and other similar meetings and hearings. Counsel has a duty to prepare for, attend, and advocate zealously on behalf of the client at all such hearings and meetings, and counsel should take appropriate legal action, including the filing of relevant pleadings and appeals, when necessary.

E-1 Community Status Review Hearings

Counsel must provide zealous representation at Community Status Review Hearings with the same duty of care, level of preparation, investigation, and adherence to the principles governing representation as counsel would provide for any other proceeding. Counsel must be proficient in Chapter 12 of Title 29 of the D.C. Municipal Regulations, which governs Community Status Review Hearings, including timelines, standards of proof, and procedural requirements for revocation. As noted above, counsel must advise the client before the client signs a waiver of a Community Status Review Hearing.

Pre-Administrative Hearing

Counsel must investigate the client's alleged violations, including whether DYRS and designated service providers have met their obligations to the client. Counsel shall engage actively, as appropriate for advancing the client's interests, in pre-hearing motions practice.

Counsel has a duty to pursue, as soon as practicable, discovery related to the allegations and upcoming hearing. This should include DYRS's probable cause determination, documentation of the alleged violation(s), the relevant community placement agreement, and any other documents upon which DYRS relied on in forming the basis for the revocation recommendation.

When DYRS is seeking to detain the client prior to the Community Status Review Hearing or other administrative hearing, Counsel has the obligation to ensure appropriate due process is provided. Counsel should immediately consult with their client as to the client's expressed interest regarding detention and necessary investigation surrounding the probable cause inquiry. Counsel should consider all possible responses to DYRS's request for probable

[11] *See* D.C. Code § 16-2335.

cause, including objecting to detention without conceding any allegations, responding to the request in writing, and requesting a hearing on the matter.

Requests for a continuance should only be made with good cause and after having fully informed the client of the need for the continuance. Counsel should assess the impact of a delay on the client and the client's liberty interests.

Hearing

At the Community Status Review Hearing, as appropriate, counsel should prepare opening and closing statements, present witnesses and cross-examine DYRS's witnesses, and prepare and present exhibits in an effort to present the strongest case possible. Counsel must be fully informed of the procedural rules for Community Status Review Hearings and make appropriate motions and evidentiary objections before and during the hearing to protect the client's rights and advance the client's objectives, including steps to establish and preserve the record for appeal. Counsel must also offer mitigation, including whether DYRS and designated service providers met their obligations to the client, to explain the client's alleged violation(s) and/or to advocate for a less restrictive outcome.

Post-Administrative Hearing

Counsel must obtain copies of all hearing documents and recordings, and inspect them to ensure that the documents reflect the oral representations made at the hearing. Counsel should file any motions necessary to remedy factual or legal inaccuracies to promote the client's interests.

Immediately following the hearing, counsel should review the hearing with the client to explain the outcome, discuss the likely ramifications on the client's placement and services, and discuss any basis and timeline for appeal. Counsel shall consider and discuss with the client the client's right to appeal and whether the appeal has merit. When discussing the possibility of an appeal, counsel should explain both positive and negative potential effects or consequences.

If the client wishes to appeal the outcome of the hearing and if legally appropriate, counsel should file a timely appeal of the hearing decision. Counsel must be familiar with the law, procedures, and timelines for filing an appeal of an administrative decision, including both the hearing determination and the agency director's determination. Counsel must also ensure that the client's appellate rights are preserved at all stages of the administrative process.

If the determination of the Community Status Review Hearing was in the client's favor and DYRS does not abide by the hearing officer's determination within a reasonable time period following the hearing, counsel must take immediate and appropriate legal action, including filing a writ of habeas corpus if the client is securely held.

E-2 Team Meetings

Counsel should represent the client at all team meetings (including Team Decision Making Meetings) and, as noted above, should make every effort to participate in facility-based team meetings if the client is placed in a secure or out-of-state facility. Because team meetings can have an impact on the client's placement, supervision requirements, and services, counsel has a duty to prepare for, attend, and advocate zealously on behalf of the client at all such meetings.

Counsel should meet with the client prior to the team meeting to discuss the client's goals for the meeting. If it would advance the client's interests, counsel should also communicate with the DYRS caseworker prior to the team meeting.

Following the team meeting, counsel should take any follow-up action necessary to advance the client's interests, such as ensuring that DYRS implements any promised services, in accordance with the client's wishes.

E-3 Disciplinary Hearings

If the client is held at a DYRS secure facility, the client could be subject to disciplinary hearings for infractions, which could result in the loss of privileges, a longer length of stay, or other negative consequences. Counsel should zealously represent the client at all DYRS disciplinary hearings, and must be knowledgeable of the procedural rules that govern such hearings. Effective representation includes conducting pre-hearing investigation and interviews, identifying and preparing potential witnesses, making appropriate motions and evidentiary objections, presenting the strongest case possible including mitigation arguments, requesting the client's preferred sanction as appropriate, and establishing and preserving the record for appeal.

Immediately following the hearing, counsel should review the hearing with the client to explain the outcome and any sanctions. Counsel shall consider and discuss with the client the client's right to appeal and whether the appeal has merit.

If the client wishes to appeal the outcome of the hearing and if legally appropriate, counsel should file a timely appeal of the hearing decision. Counsel must be familiar with the law, procedures, and timelines for filing an appeal of an administrative decision, including both the hearing determination and the agency director's determination. Counsel must also ensure that the client's appellate rights are preserved at all stages of the administrative process.

E-4 Article VI Hearings

If DYRS wishes to send the client to an out-of-state facility and the client opposes such placement, counsel shall insist upon and represent the client at both a DYRS administrative hearing and a Family Court hearing based on Article VI of the Interstate Compact on Placement

of Children.[12] Prior to these hearings, counsel shall investigate the requested placement, DYRS's reasons for the placement, any equivalent facilities and/or services in the District of Columbia, and other potential out-of-state and/or family placements that the client might prefer. Counsel shall also interview the client's parents or guardians. At both hearings, counsel shall advocate zealously on the client's behalf based on the standards of Article VI and shall establish and preserve the record. Counsel must be knowledgeable in both the DYRS rules that govern such administrative hearings and Superior Court rules.

Immediately following each hearing, counsel should review the hearing with the client to explain the outcome and the next steps, including the legal viability of an appeal.

E-5 <u>Court Hearings</u>

Throughout the client's commitment, counsel may have one or more opportunities to address and/or petition the Family Court. This could include review of commitment hearings, hearings regarding an appeal of a DYRS administrative determination, Article VI hearings, hearings in response to a writ of habeas corpus, hearings in response to a motion to modify disposition, or other similar hearings. For all such hearings, counsel must be knowledgeable in Superior Court rules. Panel attorneys should refer to the Juvenile Practice Standards for more detailed standards related to representation in court hearings.

F. Effective Date

These practice standards will take effect by Administrative Order of the Court.

[12] *See* D.C. Code § 4-1422 and § 4-1424.