

OCR Verifications/Renewal Information Sources Benchmarks and Follow Up Chart

The OCR attorney applications process is designed to support attorneys in their pursuit of best practices and provide the OCR a broad perspective on each contractor's strengths, challenges, and opportunities for improvement. Through this process, the OCR confirms attorneys' compliance with the CJD and their contract with the OCR. This process allows OCR to identify attorneys who provide high quality investigation and advocacy in an efficient practice. The information collected also helps OCR and attorneys identify areas for improvement and, in some instances, CJD and contract compliance issues.

The State Auditor's 2018 Performance Audit recommended that the OCR establish benchmarks for evaluating quantitative and qualitative aspects of performance, guidance for using the information collected to address performance issues, and requirements for documentation. This document standardizes, for each source of information used, benchmarks requiring follow-up and action steps.

In reviewing the information collected during its renewal and verifications process, the OCR is mindful that effective best interests advocacy is difficult to standardize and measure. Each quantitative and qualitative source of information provides only discrete indicators of overall practice and must be analyzed in light of its limitations. Additionally, information indicating CJD and/or contract compliance issues may reflect issues beyond an attorney's control, such as an attorney shortage in a district or a sudden spike in appointments.

In determining what action to take in response to any information source or combined information sources, the OCR considers a number of factors, including but not limited to:

- Does the information source definitively demonstrate a CJD/contract non-compliance, or does it merely indicate potential noncompliance? If the information source merely indicates potential noncompliance, is the potential noncompliance indicated by other information sources?
- What factors caused the CJD/contract compliance issue?
- Does the compliance issue reflect an ongoing performance issue or was it the result of unique/point in time circumstances?
- What is the attorney's commitment to and plan for addressing the compliance issue?
- What are the judicial district's attorney needs, and how will the OCR's action to address the compliance issue impact those broader needs?

********An attorney's non-compliance with CJD 04-06's a) caseload cap or b) initial in-placement visit requirements for more than 5% of children on the attorney's D&N caseload (unless waived by the CJD) requires OCR action. When visits are missed due to no fault of the GAL, such as medical issues by GAL, multiple but unsuccessful attempts made by GAL to visit early on in appointment, or child on run/parent unable to be found, ongoing monitoring of visits constitutes sufficient action.***

Possible OCR actions to address identified CJD/contract compliance issues may include but are not limited to:

- Addressing the compliance issue through the clarification of a CJD requirement, training, or other practice support.
- Addressing attorney caseload issues through the addition of attorneys to the judicial district list.
- Removing (temporarily or long-term) the attorney from the appointment list.
- Documenting the specific actions the attorney will take to address the compliance issue.
- Modifying the terms of the attorney's contract to reflect the actions required to address the compliance issue.
- Monitoring the attorney's performance on an ongoing basis to assess whether the attorney has successfully addressed the compliance issue.
- Terminating the attorney's contract and seeking substitution of counsel on existing appointments. *The decision to seek removal of an attorney from existing appointments must comply with CJD 04-06 and should, whenever possible, include consideration of the impact on continuity of representation for the child and the caseload of other attorneys in the judicial district.*

| | Information Source | Benchmark for Follow up | Follow up During Verifications/Applications Cycle |
|---|--|---|---|
| Annual Review (Applicable to both Verifications and Renewals) | D&N CJD Visit Report (aka 30-Day Visit Report) <i>**This will be run on a cumulative quarterly basis throughout year (for FY 2020 beginning with 1/1/19-9/30/19, then 1/1/19-12/30/19, then 1/1/20-3/30/20, subsequent fiscal years beginning 4/1/##)</i> | Attorney did not comply with 30-day visit requirement for any child with appointment open for 30+ days (unless waived by the CJD). | Performance Analyst compares this report to CJD Exceptions Report for potential explanations. Performance Analyst communicates with attorney to identify whether lack of compliance indicated by report is accurate and not the result of a billing issue, early case closure, or CJD exemption. Notifies Staff Attorney of any potential CJD compliance issue, waiver other than data entry, or case closure within 30 days). Staff Attorney engages in further communication to assess validity of non-data waivers or potential CJD compliance issue is indicated. OCR staffs action to address missed visits for more than 5% of children. |
| | CJD Exceptions Report | Attorney reports missed visits for any child (without sufficient explanation/unless waived by the CJD) or report suggests a pattern of other CJD compliance issues. | Staff Attorney communicates with attorney to discuss reasons for CJD noncompliance and potential solutions. |
| | Activity Report (cost per case and composition of activity) | Average cost per case is 50% above/below state average by case type (D&N and JD). In attorney's primary district, travel time is 10 percentage points higher than the district % or contact with the child is 5 percentage points lower than the state %. . <i>E.D. exception: 5 or fewer cases in either case type does not allow meaningful aggregate analysis.</i> | Performance Analyst reviews report to identify whether follow up is required. Staff Attorney communicates with attorney to identify potential CJD/contract compliance issues and works with Performance Analyst to review case samples from CARES if needed to further analyze issue. |
| | Discipline Report | Reported OARC proceedings involve/raise a potential GAL/CLR practice issue. | Staff Attorney discusses discipline with attorney, obtains further information from OARC if necessary. |
| | Stakeholder Report | Either number or consistency of negative responses indicates a CJD/contract compliance issue. | Program Analyst reviews responses and notifies staff attorney if >1 disagree responses in any question or >0 from a judicial officer. Staff Attorney reviews comments and communicates with attorney to assess validity of potential issues. If feedback is serious and disputed, reach out to stakeholders for additional information. For |

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| | | | valid issues, discuss potential causes and solutions. |
| | Complaint(s) or other performance issue outstanding issues form. | Founded complaints during timeframe and/or pending follow up. | Staff Attorney identifies whether CJD/contract compliance issues have been satisfactorily addressed. |
| | <i>Child Count Report</i> | <i>Reported child count exceeds CJD caseload cap (TBD).</i> | Performance Analyst communicates with attorney to identify accuracy of report. Staff Attorney communicates with attorney to identify action to be taken to reduce caseload. |
| | <i>Issues identified through Risk-Based Sampling/Periodic Reports (to be implemented after completion of CARES reports)</i> | <i>Follow up actions/analysis remains outstanding or other information sources reflect ongoing issue.</i> | Performance Analyst, in consultation with Staff Attorney and COO , analyzes billing to identify whether issues have been satisfactorily addressed. |
| | <i>Youth Surveys (potential future addition)</i> | <i>For FY 2019-20, the OCR plans to review survey results with individual attorneys to assess the potential use of this information as a verifications/applications component.</i> | |

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| Renewals | Court Observation Summary | Observations indicate potential issue with not stating GAL or child position, not providing independent information to court, not attending court. | Staff Attorney communicate with attorney and review in light of other information sources to assess validity of potential CJD/contract compliance issues and to identify causes and solutions. |
| | Case reference Summary | Information provided indicates lack of communication, professionalism, or engagement or a CJD compliance issue. | Staff Attorney communicates with attorney to assess validity of feedback, causes, and solutions. |
| | Writing Sample | Attorney does not provide substantive writing sample or writing sample indicates a CJD/contract compliance issue or training need. | Staff Attorney communicate with attorney to determine whether issue exists and whether issue is unique to the attorney or the result of a judicial district practice/custom. |
| | Activity in Timeframe Report (aka 45-Day Report) <i>With new CARES, it may take a year or two to develop a meaningful Activity in Timeframe Report</i> | Average time deviates from state average by 30%. | Performance Analyst engages in initial review to identify need for follow up. Staff Attorney communicates with attorney to assess CJD/contract compliance issues; considers information in light of other data sources. |