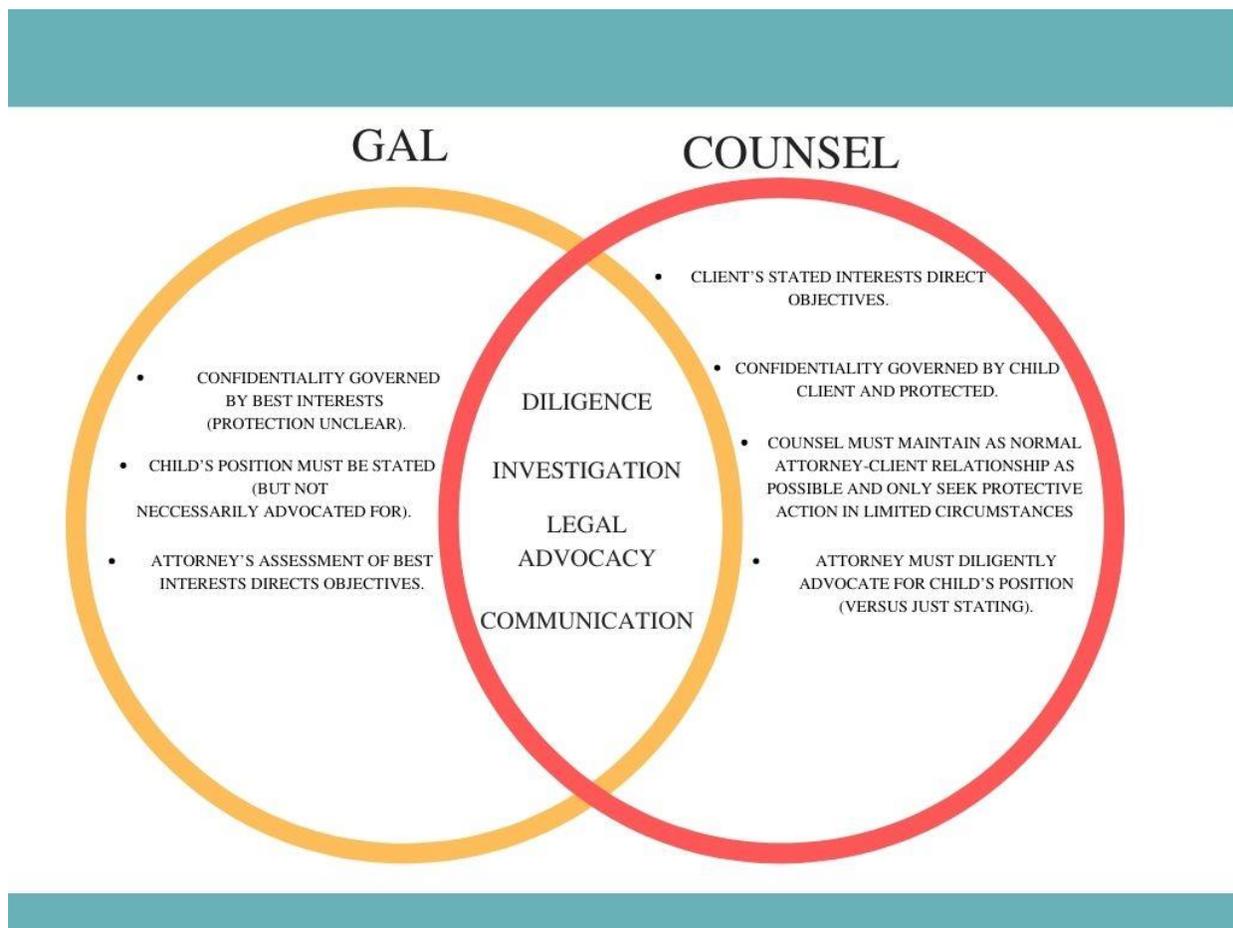




Empowering Youth: Transition to Client-Directed Representation

The OCR plans to implement client-directed representation for youth aged 12 or older who are named in Dependency and Neglect petitions. This transition would occur in Fiscal Year 2023, after necessary legislation is introduced and passed. This transition will ensure Colorado stays at the forefront of child welfare practice, further elevate youth voice in legal proceedings, promote due process and advance equity for youth.

Role Differences and Similarities:



Why Client-Directed Counsel?

- Essential component of advancing youth rights and providing youth a truly meaningful voice in proceedings.
- Parity with others in proceeding and with other case types.
- Enhances quality of decision-making.
- Improves youth feelings of procedural due process and acceptance of and compliance with court orders.
- Mitigates potential bias risks associated with discretionary decisions such as best interests.

- When capacity is not at issue, attorneys are better suited to counsel and advocate than to make best interests determinations.
- Consistent with best practices recognized by the American Bar Association, the National Association of Counsel for Children, and a growing national trend. While not all states provide counsel for youth, there are currently 28 states that provide for client-directed legal representation in some form. This year alone three states instituted client-directed representation for youth (Arizona, Washington and North Dakota).
- Builds on the changes made in Colorado through HB1094, which changes attorney representation to be client-directed for youth 18 and older.

Why Age 12?

- Consistency with Colorado law, for example:
 - 12 is the age for which consent to adoption (C.R.S. 19-5-203 (2)) and guardianship (C.R.S. 15-14-203 (2)) is required, and when a court must consider the youth's position on termination (see C.R.S. 19-3-702(4)(e)(II)).
 - 12 is the age a youth should be involved in meetings at which decisions are being made about the youth's future (C.R.S. 19-7-101 (z)).
 - 12 is the age at which courts consistently consult youth regarding issues such as permanency, adoption or guardianship, making this is more familiar process for the judiciary and practitioners.
 - 12 is the first age at which a youth may consent to some mental health services in Colorado.
- Other states also have a specific age when representation changes, for example, New Mexico uses the age of 14, Washington uses the age of 8, while Idaho and Wisconsin use the age of 12.

Examples

- Client-directed: AZ, CT, KY, LA, MA, MD, NV, NJ, NY, ND, OK, VT, WV
- Transition or appointment at specific age: ID (12), MN (10), NM (14), WA (8), WI (12).

“A direct interest attorney would fight for what I want. Why should I go to court when no one is on my side? I’m still here.”

- Quote from Youth in OCR focus group

Please feel free to reach out with any ideas, questions, or concerns to your staff attorney liaison or the OCR Legislative Liaison, Ashley Chase, (720) 351-4346, ashleychase@coloradochildrep.org.