



Colorado Office of the
Child's Representative

Empowering Youth: Transition to Client-Directed Representation

What: Change from best interests of the child legal representation to client-directed legal representation for youth aged 12 and older in Dependency and Neglect (D&N) cases.

When: Legislation will be introduced in the 2022 session with a proposed implementation date of January 2023.

Why:

- Essential component of advancing youth rights and giving youth an authentic voice in D&N cases involving their lives, families, and homes.
- Provides parity in D&N cases for youth, enhances quality of decision making and is essential to ensuring procedural justice in D&N cases.
- Improves youth feelings of procedural due process and acceptance of and compliance with court orders.
- Brings Colorado in line with the recommendations of the American Bar Association and the National Association of Child Counsel and ensures Colorado stays at the forefront of child welfare practice.
- Help mitigate potential implicit bias inherent in discretionary decisions.

FAQ:

- **Why age 12?** While many states provide client-directed representation to all children and youth in D&N proceedings, states that transition from best interests to client-directed representation use ages ranging from 8 – 14 years old. In Colorado, 12 is consistent with other statutes such as C.R.S. 19-5-203(2) which requires a youth 12 and older to consent to their own adoption; C.R.S. 15-14-203(2) allowing a youth 12 and older to consent to or refuse appointment of a guardian, C.R.S. 19-7-101(z) stating youth 12 and older should be involved in meetings at which decisions are made about their future, and C.R.S. 12-43-202.5(2) allowing minors 12 & older to seek mental health treatment without the consent of the minor's parent or legal guardian.
- **Do other states do this?** Yes, in fact 28 states have some form of client-directed counsel for children and youth. Some examples include Arizona, Georgia, Louisiana, Massachusetts, Nevada, New Jersey, New York, Oklahoma, Vermont, West Virginia. Idaho and Wisconsin both change to client directed representation at age 12, Minnesota at age 10, Washington at age 8 and New Mexico at age 14. New Mexico made this change over 15 years ago and is exploring client-directed legal representation for all youth. The OCR is not aware of any state that has enacted client-directed representation and then later changed back to a best interests model.
- **Will OCR continue to provide oversight?** Yes, the OCR will continue to provide oversight of attorneys representing children and youth pursuant to its enabling legislation, C.R.S. 13-91-101 et. seq. Corresponding changes recommended to the Chief Justice regarding CJD 04-06 will ensure clear practice standards applicable to attorneys under both the

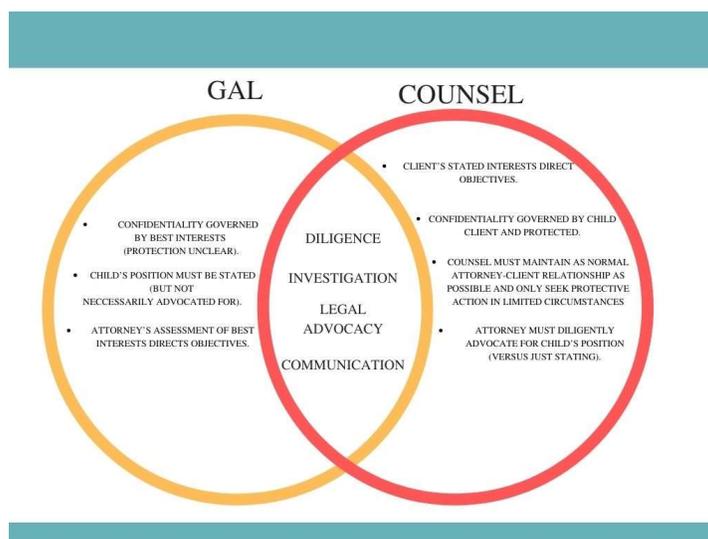
A direct interest
attorney would fight
for what I want. Why
should I go to court
when no one is on my
side? I'm still here.

*Quote from youth in
OCR focus group*

best interests and client directed model. OCR will continue its vigorous oversight of all attorneys contracting with the agency to represent children and youth.

- **How does this impact practice?** Children and youth will be parties in the D&N case they are named in. Attorneys providing client-directed representation will continue to do thorough and independent investigation to ensure they can give competent legal counsel to the youth. Client-Directed attorneys will have a traditional attorney-client relationship with the youth that includes the duty of confidentiality. An attorney providing best interests legal representation to a child under the age of 12 can transition to client-directed counsel when the youth turns 12 so long as they do not have a conflict of interest. An attorney can represent the best interests of siblings under 12 and the stated interest of siblings over 12 so long as the interests of the older clients are not in conflict with each other or the best interests of the younger children. An attorney cannot represent the best interests and the stated wishes of the same client (so, for example, counsel for youth in a D&N case cannot also be GAL in the JD case). Attorneys providing client-directed representation will maintain frequent contact with their youth clients to build a trusting relationship, obtain enhanced information about their needs and goals, and to present robust, youth-centered information to courts.

Role Differences and Similarities:



What it looks like:



Ask youth what they want and then get to the why



Really get to know the youth by:

- Meeting with them and talking to them
- Reading reports and assessments
- Talking to other important people who know the youth
- Talking to the schools, etc.



Advise the youth about what they want, what is likely to win in court or not and why



Problem solve with the youth about what they want and provide guidance



Advocate in Court for what the youth lands on

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