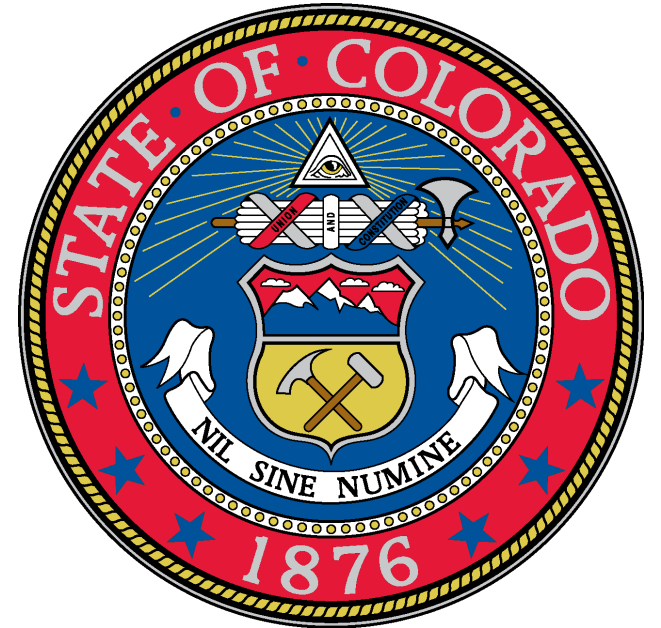


STAYING IN YOUR LANE TO STAY THE COURSE

OFFICE OF THE CHILD'S REPRESENTATIVE
CORE COMPETENCIES II 2022





SESSION GOALS

- Examine rules, directives, OCR policies, and law re common, recurring scenarios
- Consider how boundaries, rules, and parameters help:
 - Advance the rights and serve interests of children and youth on your cases
 - Hold the system accountable for what it must do
 - Support a sustainable practice
 - Help you be the best lawyer you can be
- Identify legal and practical strategies to address real case challenges

THE PLAN

- Six scenarios
 - Policies, directives, Rules of Professional Conduct, applicable law
 - Discussion re strategies, solutions, similarities
- Summary of strategies and considerations
- Q&A, other scenarios you are facing





BEFORE WE BEGIN

SCENARIO 1

You have been working with Ben, age 15, on his right/decision to attend court. Ben is currently placed with a foster parent and has become increasingly disengaged with school, treatment, etc. You believe that attending court will help him better understand the process, feel heard, and engage in the case.

After expressing reservations, he has agreed to come to court and you have an upcoming permanency hearing. The department has notified you that neither the caseworker nor the foster parent are available to transport Ben to court.

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Later on, Ben is approved for a placement at a QRTP. Because of some escalating behaviors, caseworker is nervous about transporting Ben alone and asks you to accompany her on the trip.

SCENARIO 1 RESOURCES

Colorado Rules of Professional Conduct

- Rule 1.7 Conflict of Interest
- Rule 3.7 Lawyer as Witness

CJD 04-06

- V.D.1 Court participation commentary
- VI.B.2 Court Duties

Billing policies and procedures

- Section III: The OCR does not fund treatment or services

Other considerations

- Malpractice insurance?

OCR Resources

- GRID Children in Court fact sheet
- OCR's Youth Center/Webpage
- Litigation toolkit

SCENARIO 2

You have been appointed as GAL for two children, ages 3 and 4. Mother has a developmental disability, and children are currently residing with mother and their grandmother. You reach out to Mother's counsel to gain permission to speak to her client, and she sends an email stating that because you are clearly biased against her client based on her client's disability and race, you cannot meet with her outside of her presence. Mother's counsel also states that you cannot conduct a home visit outside of her presence, as that necessarily involves communicating with her client.

Mother's counsel refuses to respond to multiple emails in which you are attempting to set up a meeting and visit, and at the next court hearing calls you a racist and indicates you have made no efforts to set up a meeting.

SCENARIO 2 RESOURCES

CJD Provisions

- V.D.4.a observing child in placement
- V.D.4.b meeting with placement providers
- V.D.4.c interviewing parents, make diligent efforts to observe parent/child interactions
- ORPC CJD 16-02

Colorado Rules of Professional Conduct

- Rule 8.4
- Rule 8.3
- Rule 3.3

Statutes and Rules

- 19-3-203

OCR Resources

- Litigation toolkit
- Case consultants

Other Considerations

- Maintaining focus on children

SCENARIO 3

Supervised visits are currently ordered between parents and the two children whose interests you represent (ages 1 and 3). Children were just removed from their parents' home a week and a half ago; the first visit was canceled when parents' transportation fell through, and you just learned that due to pandemic related staffing issues, there are no staff available to supervise the visit scheduled for this afternoon. Your case consultant amazingly does not have anything scheduled for the time the visit is supposed to take place.

SCENARIO 3

RESOURCES

Colorado Rules of Professional Conduct

- Rule 3.7 Lawyer as Witness

CJD 04-06

Rules and Statutes

- Reasonable Efforts, 19-3-208
- Visits, 19-3-217 (HB 21-1101), also in reasonable efforts statute

Billing Policies and Procedures

- Section III: The OCR does not fund treatment or services

OCR Resources

- GRID Fact Sheets: Visits, Reasonable Efforts
- Motions

Other Considerations

- How do you hold system accountable if you do its job?

SCENARIO 4

You are GAL for two boys, age 2 and 4. From what you are observing in your visits, you believe they both have some challenges and are in potential need of physical therapy, occupational therapy and perhaps more. Just three months into the case, they have been through three caseworkers, and the current one isn't doing anything to make referrals for evaluations/assessments, let alone to get these services set up.

You've brought up the problems to the County Attorney on several occasions, and even raised it to the judge in court, who responded that she's sure the department is doing the best they can with the turnover. This has caused your relationship with the County Attorney to deteriorate to the point she refuses to return your phone calls and emails.

SCENARIO 4 RESOURCES

CJD 04-06

Rules and Statutes

- Reasonable Efforts, 19-3-208

Billing Policies and Procedures

- Section III: The OCR does not fund treatment or services

OCR Resources

- GRID Fact Sheets: Reasonable Efforts, Medical and Dental Needs of Children in Care
- Motions
- Case consultants

Other Considerations

- Drawing line between independent investigation/advocacy and doing department's job for it
- What do you do when county just doesn't have resources?

SCENARIO 5

During your conversations with Luis, age 14, he indicates that he does not feel comfortable with the family therapist. Luis is having questions about his own sexual identity, believes his family is not accepting, and perceives the therapist as being aligned with his father and his father's right to set strict rules regarding who Luis sees.

You have raised this issue with the department, who indicates that this therapist is the only available option, as they are the one community provider who can provide therapy in Spanish, Luis's father's primary language. Family therapy is one of the services that has been put in place to allow Luis to remain home pursuant to a safety plan.

SCENARIO 6

Shayna, age 16 is the kid who tugs at your heartstrings. After a failed adoption, she has been through multiple placements, she is currently in a QRTP, and the team has had a really hard time finding natural supports for her. Her behavior issues are severe, but she's sweet and funny once she develops trust with someone. She calls you every other day just to talk about her day at school, what is happening with other kids, and to vent. She has requested that you go out for Starbucks each week just to check in about her case and to help with her math homework.

- Her birthday is coming up, and you know she will not be receiving any presents. She has been telling you how much she wants a pair of Converse high tops.
- Long-time family friends of yours are interested in becoming foster parents and you think they'd be a great match for Shayna.

REMINDERS



Staying in your lane benefits you, your client, and advances justice



Rules, directives, law can be a support



You are not in this alone.
You have support.

OCR resources

- Case consultants
- Litigation Support
- Training
- GRID
- Litigation Toolkit

OCR staff

Each other