

OKLAHOMA

<p>Structure, organization, and delivery of Child Representation</p> <p>State-by-state, county-by-county, etc.</p>	<p>Each judicial district shall be responsible for developing and administering procedures and rules for such courses for attorneys identified in this subsection whose duties routinely include juvenile court docket responsibilities. The chief judge of each judicial district, or any designee judge with juvenile docket responsibilities, shall carry out this mandate within one (1) year of the effective date of this legislation. O.S. § 1-8-101</p> <p>Effective July 1, 1996, the duties and responsibilities for legal representation to indigent children who are subject to any proceeding or appeal provided for in the Oklahoma Children's Code, mental health proceeding and appeal, guardianship proceeding and appeal, private termination of parental rights proceeding and appeal, family law proceeding and appeal addressing custody or visitation and appeal, civil case in which the child is a defendant, criminal proceeding for a crime in which the child was a victim, and in-need-of-supervision proceeding shall no longer be provided by the Indigent Defense System, but shall be provided by volunteer attorneys appointed by the court pursuant to subsection K of Section 1355.8 of Title 22 of the Oklahoma Statutes. O.S. § 24.1</p> <p>In all cases in which legal representation by the Oklahoma Indigent Defense System is not authorized by other provisions of the Indigent Defense Act and in which indigents are entitled to legal representation by the Constitution and laws of this state, the court shall appoint legal representation, from a list of qualified volunteer attorneys who provide proof of professional liability insurance coverage, and direct to be paid from the local court fund a reasonable and just compensation ... O.S. § 1355.8(K)</p>
<p>Funding Child Representation</p>	<p>A. 3. The attorney shall be allowed a reasonable fee for such services as determined by the court. ...</p> <p>C.3. A court-appointed special advocate shall serve without compensation. O.S. § 1-4-306.</p> <p>If financially capable, the parent, legal guardian, or custodian reimburses the court fund for the services of the child's court-appointed attorney. OKLA. ADMIN. CODE 340:75-6-48.1</p> <p>In all cases in which legal representation by the Oklahoma Indigent Defense System is not authorized by other provisions of the Indigent Defense Act and in which indigents are entitled to legal representation by the Constitution and laws of this state, the court shall appoint legal representation, from a list of qualified volunteer attorneys who provide proof of professional liability insurance coverage, and direct to be paid from the local court fund a reasonable and just compensation not to exceed Eight Hundred Dollars</p>

	<p>(\$800.00) to the attorney or attorneys for services as they may render. The compensation limit may be exceeded if the court finds that the case required an extraordinary amount of time to litigate. O.S. § 1355.8(K)</p>
<p>1. General Duties: Timely appointment, mandatory or discretionary, attorney or lay person, represent child’s interests, undertake basic obligations, address conflict situations, address special needs and disabilities, and accommodate client preferences.</p>	<p>“Court-appointed special advocate” or “CASA” means a responsible adult volunteer who has been trained and is supervised by a court-appointed special advocate program recognized by the court, and when appointed by the court, serves as an officer of the court in the capacity as a guardian ad litem. O.S. § 1-1-105(14).</p> <p>“Guardian ad litem” means a person appointed by the court pursuant to the provisions of Section 1-4-306 of this title having those duties and responsibilities as set forth in that section. The term “guardian ad litem” shall refer to a court-appointed special advocate as well as to any other person appointed pursuant to the provisions of Section 1-4-306 of this title to serve as a guardian ad litem. O.S. § 1-1-105(28)</p> <p>(j) In deprived proceedings, the attorney appointed for the child is independent of and not selected by the DA, the child's parent, legal guardian, or custodian per 10A O.S. § 1-4-306. In criminal actions brought under Title 21 of the Oklahoma Statutes, the child victim may be appointed an attorney per Section 843.7 of Title 21 of the Oklahoma Statutes.</p> <p>(1) The child's attorney represents the child's expressed interests unless the child is very young, unable to express an interest, or incapable of judgment and meaningful communication. When the child is unable to express an interest or lacks judgment, the attorney formulates and presents a position that serves the best interests of the child using objective criteria outlined in 10A O.S. § 1-4-306, rather than relying solely on the attorney's life experience or instinct.</p> <p>(2) The child's attorney meets with the child as soon as possible after appointment and, except for good cause, prior to any hearing in the deprived proceeding. OKDHS provides the child's attorney access to reports, records, information relevant to the case, and the child's parent, legal guardian, or custodian's examination reports. Per OAC 340:75-6-48.1, the attorney is advised of the child's location and how best to contact the child.</p> <p>(k) Per 10A O.S. § 1-4-306, the court appoints, after a deprived petition is filed and upon the request of the child, child's attorney, OKDHS, or another party to the deprived action, a guardian ad litem or court-appointed special advocate (CASA) to objectively advocate for and investigate matters concerning the child's best interests. The guardian ad litem or CASA makes reports and recommendations to the court and conducts interviews with parents, foster parents, providers, CW specialists, and others with case knowledge. OKLA. ADMIN. CODE 340:75-3-110</p> <p>A. 2.a. The court may appoint an attorney or a guardian ad litem for the child when an emergency custody</p>

hearing is held; provided, that when a petition is filed alleging the child to be deprived, the court shall appoint a separate attorney for the child, who shall not be a district attorney, regardless of any attempted waiver by the parent, legal guardian or custodian of the child of the right of the child to be represented by counsel. The child's attorney shall be independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian. If financially capable, the parent, legal guardian or custodian shall reimburse the Court Fund for the services of a court-appointed attorney for the child.

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c. The attorney shall represent the child and any expressed interests of the child. To the extent that a child is unable to express an interest, either because the child is preverbal, very young or for any reason is incapable of judgment and meaningful communication, the attorney shall substitute his or her judgment for that of the child and formulate and present a position which serves the best interests of the child. Such formulation must be accomplished through the use of objective criteria rather than solely the life experience or instinct of the attorney. The objective criteria shall include, but not be limited to:

- (1) a determination of the circumstances of the child through a full and efficient investigation,
- (2) assessment of the child at the moment of the determination,
- (3) examination of all options in light of the permanency plans available to the child, and
- (4) utilization of medical, mental health and educational professionals, social workers and other related experts.

...

B. 1. After a petition is filed, the court shall appoint a guardian ad litem upon the request of the child or the attorney of the child, and may appoint a guardian ad litem sua sponte or upon the request of the Department of Human Services, a licensed child-placing agency, or another party to the action.

2. A guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, the child's attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child.

3. The guardian ad litem shall be appointed to objectively advocate on behalf of the child and act as an officer of the court to investigate all matters concerning the best interests of the child. In addition to other duties required by the court and as specified by the court, a guardian ad litem shall have the following responsibilities:

a. review documents, reports, records and other information relevant to the case, meet with and observe the child in appropriate settings, and interview parents, foster parents, health care providers, child protective services workers and any other person with knowledge relevant to the case,

b. advocate for the best interests of the child by participating in the case, attending any hearings in the matter and advocating for appropriate services for the child when necessary,

c. monitor the best interests of the child throughout any judicial proceeding, and

	<p>d. present written reports on the best interests of the child that include conclusions and recommendations and the facts upon which they are based</p> <p>...</p> <p>C. 1. Whenever a court-appointed special advocate program is available to the court to serve as a guardian ad litem, priority may be given to appointment of the court-appointed special advocate to serve as guardian ad litem for the child regardless of whether a guardian ad litem has been requested pursuant to the provisions of this subsection.</p> <p>2. For purposes of the Oklahoma Children's Code, a "court-appointed special advocate" and a "guardian ad litem" shall have the same function except as otherwise provided by law. In like manner, a court-appointed special advocate, except as specifically otherwise provided by law or by the court, shall have the same power, duties, and responsibilities as assigned to a guardian ad litem by law and shall have such other qualifications, duties, and responsibilities as may be prescribed by rule by the Supreme Court. O.S. § 1-4-306.</p> <p>(a) Per Section 1-4-306 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-306), the court may appoint an attorney to represent the child when an emergency custody hearing is held but must appoint an attorney to represent the child when a petition is filed alleging the child to be deprived.</p> <p>(1) The child's attorney is independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian. The parent, legal guardian, or custodian may not select the child's attorney. OKLA. ADMIN. CODE 340:75-6-48.1</p>
<p>2. Out of Court - Actions to be Taken: Meet with child, undertake an investigation, provide advice and counseling, file pleadings, request services, address special needs, negotiate settlements</p>	<p>A. 2. b. The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child prior to any hearing in such proceeding. The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances. If a meaningful attorney-client relationship between the child and the attorney is prohibited due to age or disability of the child, the attorney shall contact the custodian or caretaker of the child prior to the hearing.</p> <p>c. The attorney shall represent the child and any expressed interests of the child. To the extent that a child is unable to express an interest, either because the child is preverbal, very young or for any reason is incapable of judgment and meaningful communication, the attorney shall substitute his or her judgment for that of the child and formulate and present a position which serves the best interests of the child. Such formulation must be accomplished through the use of objective criteria rather than solely the life experience or instinct of the attorney. The objective criteria shall include, but not be limited to:</p> <p>(1) a determination of the circumstances of the child through a full and efficient investigation,</p> <p>(2) assessment of the child at the moment of the determination,</p>

- (3) examination of all options in light of the permanency plans available to the child, and
- (4) utilization of medical, mental health and educational professionals, social workers and other related experts.

The attorney shall make such further inquiry as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the interests of the child. A child is a party to all deprived proceedings and is therefore able to participate as fully as the parents and the district attorney in all aspects of the proceedings including, but not limited to, voir dire, cross examination, the subpoena of witnesses, and opening and closing statements

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B.4. The guardian ad litem shall be given access to the court files and agency files and access to all documents, reports, records and other information relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to the laws relating to child abuse and neglect including reports generated by service providers. [O.S. § 1-4-306.](#)

A petition or motion for termination of parental rights may be filed independently by either the district attorney or the attorney of a child alleged to be or adjudicated deprived. [O.S. § 1-4-901\(A\)](#)

A. 1. When a child has been in out-of-home care for twelve (12) months or longer, the court may require that the Department of Human Services facilitate a meeting held no later than thirty (30) days prior to the permanency hearing to discuss recommendations regarding the child's permanency plan that will be reported to and reviewed by the court.

2. The court may direct that the assigned guardian ad litem, which may be a court-appointed special advocate, if any, a judicial case manager, or the Department make arrangements for the meeting. The foster parents of the child or a representative of a group home where the child is placed, the parents of the child, or the parents' attorney, a post-adjudication review board member, the guardian ad litem who has been appointed to the case, the child, and others as appropriate, and the child's attorney shall be contacted to assist in the preparation of the report; provided, however, persons determined not to require reasonable efforts pursuant to the provisions of Section 1-4-809 of this title shall not be required to attend.

...

B.3. Unless a permanency hearing has been conducted, the Department, as applicable, shall contact the foster parents or group home of the child, the parents of the child, or the parents' attorney, a post-adjudication review board member, the guardian ad litem, or the court appointed special advocate who has been appointed to the case, and the child's attorney to assist in the preparation of the report.

...

D. The child's attorney, the parents or parents' attorney, the foster parent or group home representative, the post-adjudicatory review board member, the guardian ad litem, or the court appointed special advocate of the child may submit additional informational reports to the court for review. [O.S. § 1-4-810.](#)

(b) Per 10A O.S. § 1-4-306, the child's attorney:

- (1) represents the child and any of the child's expressed interests;
- (2) arranges to meet with the child as soon as possible after receiving notification of the appointment.
- (3) except for good cause, meets with the child prior to any court proceedings;
- (4) speaks with the child by telephone if a personal visit is not possible due to exigent circumstances; and
- (5) contacts the custodian or caretaker of the child prior to the hearing when a meaningful attorney-client relationship between the child and attorney is not possible due to the child's age or disability.

(c) The child's attorney is entitled to access juvenile court and OKDHS records without a court order per 10A O.S. 1-6-103. [OKLA. ADMIN. CODE 340:75-6-48.1\(B\)-\(C\)](#)

For the purposes of the Oklahoma Children's Code the court-appointed special advocate and the guardian ad litem have the same function, power, duties, and responsibilities except as otherwise provided by law. After a deprived petition is filed, the court appoints a guardian ad litem upon the request of the child, child's attorney, OKDHS, another party to the action, or upon the court's own motion.

...

(2) The guardian ad litem objectively advocates on behalf of the child and acts as an officer of the court to investigate all matters concerning the best interests of the child. In addition to other duties required or specified by the court the guardian ad litem:

(A) reviews documents, reports, records and other information relevant to the case, meets with and observes the child in appropriate settings, and interviews parents, foster parents, health care providers, child protective services workers and any other person with knowledge relevant to the case;

(B) advocates for the best interests of the child by participating in the case, attending any hearings in the matter, and advocating for appropriate services for the child when necessary;

...

(D) presents written reports regarding the best interests of the child that include conclusions and recommendations and the facts upon which the conclusions and recommendations are based.

(3) The guardian ad litem is given access to the court and OKDHS records, each document, report, record, and other information relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to the laws relating to child abuse and neglect including reports generated by service providers. [OKLA. ADMIN. CODE 340:75-6-48.1\(E\)](#)

3. In Court – Active

A. 2. (c) The attorney shall make such further inquiry as the attorney deems necessary to ... examine and

<p>Participation in Hearings: Appear in court, explain proceedings to client, present evidence, ensure child is present, expand scope of representation into other needed areas, and undertake certain obligations post-disposition.</p>	<p>cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the interests of the child. A child is a party to all deprived proceedings and is therefore able to participate as fully as the parents and the district attorney in all aspects of the proceedings including, but not limited to, voir dire, cross examination, the subpoena of witnesses, and opening and closing statements.</p> <p>...</p> <p>B. 3. The guardian ad litem objectively advocates on behalf of the child and acts as an officer of the court to investigate all matters concerning the best interests of the child. In addition to other duties required or specified by the court the guardian ad litem:</p> <p>...</p> <p>(b) advocate for the best interests of the child by participating in the case, attending any hearings in the matter and advocating for appropriate services for the child when necessary,</p> <p>(c) monitors the best interests of the child throughout any judicial proceeding... O.S. § 1-4-306.</p>
<p>4. Post-Hearing: Review courts order, communicate order to child, and monitor implementation of orders</p>	<p>The attorney representing a child and the guardian ad litem of a child, if any, whose case is being reviewed may submit a report to the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access. O.S. § 1-4-808(C)</p> <p>A child may, by application, request the court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:</p> <ol style="list-style-type: none"> 1. The child was previously found to be a deprived child; 2. The parent’s rights were terminated in a proceeding under Title 10A of the Oklahoma Statutes; 3. The child has not achieved his or her permanency plan within three (3) years of a final order of termination; and 4. The child is at least fifteen (15) years old at the time the application is filed. <p>B. A child shall be represented during the proceeding and shall be provided independent counsel.</p> <p>C. The application shall be signed by the child as well as the child’s attorney. O.S. § 1-4-814(A)</p>
<p>5. Appellate Advocacy: Decision to appeal, withdrawal, participation in appeal, conclusion by appeal.</p>	<p>A. Any interested party aggrieved by any order or decree may appeal to the Supreme Court pursuant to Section 1-5-103 of this title and the rules of the Supreme Court of this state.</p> <p>B. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it remove the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the Supreme Court shall so order, except as provided in Section 1-4-801 of this title. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order. O.S. § 1-5-101</p>
<p>6. Cessation of</p>	<p>A. 5. The court shall ensure that the child is represented by independent counsel throughout the pendency</p>

Representation: Contacts post representation, if any	of the deprived action... O. S. § 1-4-306.
7. General Representation Rules: Administrative structure is clear for appointment, support and accountability of the CR. The child's representative is independent from the court	<p>A. 5. The court shall ensure that the child is represented by independent counsel throughout the pendency of the deprived action...</p> <p>B. 5. On or before December 31, 2009, the Administrative Director of the Courts shall develop a standard operating manual for guardians ad litem which shall include, but not be limited to, legal obligations and responsibilities, information concerning child abuse, child development, domestic abuse, sexual abuse, and parent and child behavioral health and management including best practices. After publication of the manual, all guardians ad litem shall certify to the court in which he or she is appointed as a guardian ad litem that the manual has been read and all provisions contained therein are understood. The guardian ad litem shall also certify that he or she agrees to follow the best practices described within the standard operating manual. The Administrative Director of the Courts shall provide public access to the standard operating manual and shall periodically review and revise the manual as deemed necessary. O. S. § 1-4-306.</p> <p>The child's attorney is independent of and not selected by the district attorney, the child's parent, legal guardian, or custodian. The parent, legal guardian, or custodian may not select the child's attorney. OKLA. ADMIN. CODE 340:75-6-48.1</p>
8. Lawyer Training: Child representative trained, on-going training provided, new attorneys provided senior lawyer mentorship.	<p>A. 1. The Supreme Court is required to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile docket responsibility. Rules shall include, but not be limited to, education and training relating to juvenile law, child abuse and neglect, foster care and out-of-home placement, domestic violence, behavioral health treatment, and other similar topics.</p> <p>2. All judges having juvenile docket responsibility shall attend at least twelve (12) hours of training in such courses each calendar year relating to the topics described in paragraph 1 of this subsection.</p> <p>3. The Administrative Director of the Courts shall be responsible for developing and administering procedures and rules for such courses for judicial personnel, including monitoring the attendance of judicial personnel at such training.</p> <p>B. 1. Any district attorney, assistant district attorney, public defender, assistant public defender, attorney employed by or under contract with the Oklahoma Indigent Defense System, court-appointed attorney, or attorney employed by or under contract with a district court whose duties include juvenile docket responsibility shall complete at least six (6) hours of education and training annually in courses relating to the topics described in paragraph 1 of subsection A of this section. These education and training requirements may be accomplished through a collaborative effort between the judiciary and others with</p>

	<p>juvenile docket responsibilities.</p> <p>2. Each judicial district shall be responsible for developing and administering procedures and rules for such courses for attorneys identified in this subsection whose duties routinely include juvenile court docket responsibilities. The chief judge of each judicial district, or any designee judge with juvenile docket responsibilities, shall carry out this mandate within one (1) year of the effective date of this legislation. O.S. § 1-8-101</p>
<p>9. Lawyer Compensation: Adequate and timely compensation, reimbursement provided for expenses.</p>	<p>A. 3. The attorney shall be allowed a reasonable fee for such services as determined by the court. O.S. § 1-4-306.</p> <p>If financially capable, the parent, legal guardian, or custodian reimburses the court fund for the services of the child's court-appointed attorney. OKLA. ADMIN. CODE 340:75-6-48.1</p>
<p>10. Caseload Levels: Caseloads are of a manageable size</p>	<p>No explicit legal authority or requirements</p>