

**ROLES, RESPONSIBILITIES AND ETHICAL CODES FOR THOSE
INVOLVED IN THE WASHINGTON STATE CHILD WELFARE
LEGAL SYSTEM**

**Tim Jaasko-Fisher, Director
Court Improvement Training Academy
University of Washington School of Law
Children and Youth Advocacy Clinic**

This document is intended as a resource guide to the roles, responsibilities and ethical codes of those commonly involved in the child welfare legal process in Washington. It is hoped that the document will assist in helping members of the system understand each others obligations and limitations as we all work toward the common goal of using or unique skill sets to help resolve the issues the families we work with find themselves faced with in a way that improves their lives and the community as a whole.

Assistant Attorney General

Role: The Assistant Attorney General is responsible for representing the people of the State of Washington in Dependency proceedings. It is the AAGs job to advise DSHS staff on legal matters related to dependency cases and to represent DSHS in court. Although this typically will involve advocating for what the social worker assigned to the case would like to have happen in any given case, the AAG does not represent the social worker directly, and is obligated to advocate the position of DSHS as a whole rather than that of any individual DSHS employee.

Client: People of the State of Washington

Funding: State funded

Training: To be an AAG, you must have completed law school. No specialized training in child welfare issues is required to be assigned to represent DSHS. New AAGs typically have the opportunity to attend a two day basic juvenile litigation training within their first year of employment, which is highly encouraged, but not mandatory. AAGs also have the opportunity to attend quarterly business meetings where issues of interest to those practicing child welfare law are discussed.

Ethical Code: As with all attorneys, AAGs must follow the Washington State Bar Association's Rules of Professional Conduct which may be found on the Washington State Courts website at:

http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=RPC

Standards: The American Bar Association has published practice standards for attorneys representing child welfare agencies. Although the Attorney General's Office is not required to abide by these rules, they may be useful as a guide to establishing norms. They may be found on the American Bar Association's web site at:

<http://www.abanet.org/child/resources.shtml>

Child's Attorney

Role: Children who are the subject of a dependency proceeding in Washington do not have a right to a lawyer. RCW 13.34.100(6) provides that if a child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, "the court may appoint an attorney to represent the child's position." Consistent with RCW 13.34.100(6), both the American Bar Association and the National Association of Counsel for Children support the model of a child's attorney representing the stated interests of the child as opposed to the best interest of the child or the "legal interest" of the child. For a discussion of the various models of child representation, see Meyers, John E.B. Child Protection in America: Past, Present, and Future. Oxford University Press: 2006.

Client: The child

Training: To be an attorney, you must have completed law school. No specialized training in child welfare issues is required to be assigned to represent a child, so levels of training and experience vary significantly.

Funding: Typically attorneys for children are funded by the county. There is currently no state-wide mechanism for funding counsel for children in Washington.

Ethical Code: As with all attorneys, a child's attorney must follow the Washington State Bar Association's Rules of Professional Conduct which may be found on the Washington State Courts website at:

http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=RPC

Standards: The American Bar Association has published practice standards for attorneys representing children in dependency cases. Although attorneys are not required to abide by these rules, they may be useful as a guide to establishing norms. They may be found on the American Bar Association's web site at:
<http://www.abanet.org/child/resources.shtml>.

The American Bar Association standards have also been adopted with some changes by the National Association of Counsel for Children. The NACCs version of the standards may be found on their website at:
<http://naccchildlaw.org/training/standards.html>

Court Appointed Special Advocate / Guardian Ad Litem

Role: RCW 13.34.100 requires a Guardian ad Litem / CASA to be appointed for every child who is the subject of a dependency action unless that child is represented by independent counsel. The specific duties of the CASA / GAL are set out in RCW 13.34.105. Fundamentally, the CASA / GAL is charged with making recommendations to the court with respect to what is in the child's best interest.

Client: RCW 13.34.105(1)(e) charges guardian ad litem and Court Appointed Special Advocates with representing and being an advocate for the best interests of the child. The statute does not specify identify the client of a Guardian ad Litem / CASA's.

Training: Training varies widely. Typically, GALs have at least an undergraduate degree and some experience in criminal justice, social work, or child welfare related fields. There are no formal educational requirements for CASA volunteers, but they do complete 30 hours of in-house training prior to being appointed on cases. CASAs are also required to complete 12 hours of in-service training per year.

Funding: Paid Guardian ad Litem staff are typically county employees. The majority of CASAs are volunteers.

Ethical Code: National CASA standards require each CASA program to establish policies to govern ethical conduct.

Standards: Standards for CASA / GAL programs approved by the national CASA Association Board of Directors may be found at
http://www.casanet.org/program-management/standards/0605_standards_for_local_programs_0053.pdf

Department of Social and Health Services Social Worker

Role: The primary obligation of a DSHS social worker is to protect children and to assist families in creating or maintaining safe and stable homes.

Client: Depending on the context, a social worker may consider the child, family, or even the broader community as a whole as a client.

Training: Social workers will typically have an undergraduate degree in social work or an allied field. Many social workers have masters degrees in social work. All are required to attend a multi-week social workers academy sponsored by Children's Administration as an introduction to various facets of the work.

Funding: DSHS social workers are paid by the state.

Ethical Code: A voluntary code of ethics adopted by the National Association of Social Workers may be found at <http://www.naswdc.org/pubs/code/code.asp>

Standards: A large number of policies, practice guides, and regulatory rules govern social workers in various situations. Manuals may be found at <http://www1.dshs.wa.gov/ca/pubs/manuals.asp>

Judicial Officer

Role: A judicial officer may be a judge or a court commissioner. Fundamentally, the judicial officer's job is to decide both factual and legal issues in a case and to provide due process to all parties involved. Both state and federal law have required judicial officers to take on an increasingly complex oversight role in child abuse and neglect cases. For a further discussion of the role of the judge in child abuse and neglect proceedings, see "Remarks of Judge Leonard P. Edwards at the Presentation of the William H. Rehnquist Award for Judicial Excellence, U.S. Supreme Court, Washington D.C., Nov. 18, 2004" published in Journal of the Center for Families, Children & the Courts, 2004, p. 169.

Client: The people of the State of Washington.

Training: Although all judges must have a law degree, with the exception of a few jurisdictions, they are not required to have any special training in child welfare law.

Funding: Judges are paid for at county expense.

Ethical Code: Judges must abide by the Code of Judicial Conduct which may be found at http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=CJC

Standards: There are no required standards for conducting dependency hearings, other than adherence to Washington State law. However, recommended guidelines for

conducting hearings may be found on the National Association of Juvenile and Family Court Judges website at: <http://www.ncjfcj.org/content/blogcategory/369/438/>

Office of Public Defense Social Worker

Role: The Office of Public Defense social worker is a new concept in child welfare in Washington, the parameters of which continue to be defined. Fundamentally, the OPD Social Worker assists the parent in navigating the child welfare system.

Client: The parent.

Training: Training of OPS Social Workers varies in the same manner as it does for DSHS social workers.

Funding: OPD Social workers are paid with state funds through the state-wide office of public defense.

Ethical Code: A voluntary code of ethics adopted by the National Association of Social Workers may be found at <http://www.naswdc.org/pubs/code/code.asp>

Standards: OPD is currently developing a state-wide set of standards for OPD social workers.

Parent's Attorney

Role: The role of the parent's attorney is to represent and advocate for the wishes of the parent.

Client: Parent they are representing.

Training: As with all attorneys, parent's attorneys must be licensed to practice law in Washington. No specialized training in child welfare issues is required to be assigned to represent parents. Parent's attorneys are typically offered training opportunities through entities such as state OPD, Washington Defenders Association and in-house training opportunities. Attorneys who are not affiliated with larger defender organizations may have limited opportunities for training specific to child abuse and neglect proceedings.

Funding: Most parent's attorneys are paid via contract with the counties they serve, although many who are part of larger defender associations are salaried employees of the public defense firms. Through out Washington, there has been a substantial increase in the last five to ten years in the number of parent's attorneys paid through contracts with the State Office of Public Defense.

Ethical Code: As with all attorneys, parent's attorneys must follow the Washington State Bar Association's Rules of Professional Conduct which may be found on the Washington State Courts website at:

http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=RPC

Standards: The American Bar Association has published practice standards for attorneys representing parents in child abuse and neglect cases. Although Attorneys are not required to abide by these rules, they may be useful as a guide to establishing norms. They may be found on the American Bar Association's web site at:

<http://www.abanet.org/child/resources.shtml>