Satisfy Training Requirements

Under Welfare and Institutions Code section 634.3 and rule 5.664 of the California Rules of Court, only attorneys who have dedicated at least 50 percent of their practice to juvenile delinquency and demonstrated competence, or who have completed a minimum of 12 hours of training or education during the most recent 12-month period in the area of juvenile delinquency, may be appointed to represent youth in delinquency proceedings. In addition, to remain eligible for appointment to represent delinquent youth, attorneys must engage in annual continuing education as described in rule 5.664.

Conclusion

An attorney representing children in delinquency proceedings has a dual role. First, the child’s counsel needs to possess the skills of a defense attorney in order to provide vigorous representation of the child against allegations of unlawful behavior. Second, the attorney must be a child advocate working to ensure that the child receives the appropriate services. While this dual role brings tremendous responsibility, it also provides an exceptional opportunity to help shape the future of a child.

Effective Representation of Children in Juvenile Delinquency Court

This pamphlet provides juvenile court defense attorneys with both guidance on fulfilling the requirements of rules 5.663 and 5.664 of the California Rules of Court and suggestions for effective advocacy beyond what is mandated by law. It does not establish minimum practice standards, nor does it supply an exhaustive list of responsibilities. The purpose of this pamphlet is to provide information and guidance on what an attorney can and should do to assist the child client in order to serve the needs of this population and achieve the goal of the juvenile justice system: rehabilitation.


For additional copies or more information, please contact:
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The Judicial Council of California gratefully acknowledges the State Bar of California for its assistance in the development of this pamphlet.

Effective Representation of Children in Juvenile Delinquency Court

Effective representation during any stage of juvenile delinquency proceedings requires a practitioner to possess the skills necessary to defend the client as well as knowledge of the rules and procedures specific to juvenile court. In addition, the juvenile court advocate should be familiar with topics such as effective advocacy, child and adolescent development, educational mental health issues, immigration consequences, and capacity. Counsel also needs to become familiar with resources available to children in the delinquency system, including community resources, programs, and treatment facilities.

If an attorney is unaware of the client’s educational or mental health issues, then the needs of the client may not be met. The attorney thus should ask for specialists to perform evaluations and make appropriate referrals. In cases where the client would benefit from administrative or judicial proceedings outside the scope of the delinquency court, such as a request for special education status and an individualized education program, the attorney should bring the issue to the court’s attention so that the court can take the action necessary to protect the interests of the client.

Effective representation requires that the attorney ensure that court orders and treatment plans imposed to assist the client are properly implemented. The attorney should advocate for the continued development of a permanent plan. The attorney should evaluate the reunification plan provided to the families of clients placed out of the home. The attorney should interview treatment providers, communicate with the client’s probation officer, and consider, when possible and appropriate, representing the client in related collateral matters, such as dependency cases and placement, educational, or other administrative hearings.

It is critical that the attorney remain a zealous advocate after the case’s disposition. For example, the attorney has a critical role to play when wardship is terminated. Records held by the court and other agencies, such as law enforcement and probation, can be ordered sealed. Counsel should bring a motion to seal the client’s record as soon as statutorily allowed to do so.

Be Educated and Informed

Effective representation during any stage of juvenile delinquency proceedings requires a practitioner to possess the skills necessary to defend the client as well as knowledge of the rules and procedures specific to juvenile court. In addition, the juvenile court advocate should be familiar with topics such as effective advocacy, child and adolescent development, educational mental health issues, immigration consequences, and capacity. Counsel also needs to become familiar with resources available to children in the delinquency system, including community resources, programs, and treatment facilities.

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Responsibilities of Counsel

An attorney representing children in delinquency court has a dual role. First and foremost, the child’s counsel defends the child against the charged allegations, evaluating the allegations and possible defenses and vigorously presenting a defense. Second, counsel is a child advocate, working to have the child receive care, treatment, and guidance consistent with the child’s best interests. Children are entitled to effective representation. Counsel must provide legal representation based on the client’s expressed interests and maintain a confidential relationship with the minor. There are a number of responsibilities that constitute effective representation. It is critical that counsel, while performing each of these, remain mindful that the client is a child and communicate in a manner that is appropriate for the child’s age and maturity level.

Listen and Advise

Counsel should interview the client before all court appearances, preferably in a private place to emphasize the importance of confidentiality to the client. It is critical that counsel, while performing each of these, remain mindful that the client is a child and communicate in a manner that is appropriate for the child’s age and maturity level.

Investigate and Assess

Thorough investigation is critical to assessing the strength of any allegations in the petition and to revealing information that may help in fashioning dispositional alternatives. Counsel needs to be mindful of maintaining attorney-client confidentiality when conducting an investigation. Thorough investigation and assessment may include:

- Getting necessary releases signed
- Interviewing any parties or witnesses who may be relevant to any of the hearings
- Learning about any other experiences the client has had with the court system and speaking with attorneys, social workers, or other appropriate personnel associated with past proceedings
- Reviewing relevant records, which may include social services, psychological, medical, educational, or other records of service providers
- Speaking with the client’s parents and/or caretakers
- Discussing possible defenses with the client
- Thoroughly explaining possible consequences of contesting the matter or entering an admission
- Preparing the client to be interviewed by report writers, if counsel concludes that making a statement is appropriate
- Reviewing with the client any recommendations or case plans, including the disposition report
- Advising the client on what to do if he or she is contacted by law enforcement or rearrested
- Conferring with the minor prior to each court hearing, and having sufficient contact with the minor to establish and maintain a meaningful and professional attorney-client relationship, including during the postdispositional phase.

Advocate

A juvenile defense attorney is the child’s voice in court. Zealous representation includes:

- Appearing in court for all court dates, including postdispositional hearings and reviews
- Reviewing all reports and setting hearings when court action is needed
- Preparing motions and trial briefs as appropriate
- Presenting arguments to advance the client’s position
- Requesting contested hearings and trials when appropriate
- Contacting probation about options to ensure proper rehabilitation
- Arranging for competent experts to assist in preparing the defense, to conduct psychological evaluations or needs assessments, or to make dispositional recommendations and, when appropriate, seek appointment of those experts pursuant to sections 730 and 952 of the Evidence Code

Stay Involved

A child client is entitled to have his or her interests represented by counsel at every stage of the proceedings. If a client is adjudicated a ward, representation continues into the postdispositional hearings unless the attorney is relieved by the court. This representation extends to matters such as review hearings or violation of probation hearings. Representation in the postdispositional phase should include:

- Maintaining the attorney-client relationship and visiting the client if necessary
- Following implementation of the client’s treatment plan
- Reviewing the treatment plan with the client
- Actively representing the client at all delinquency hearings
- Conducting contested hearings if needed
- Requesting that clients in placement who are 16 years or older receive independent living services
- Examining the interests of the client beyond the scope of the juvenile