

In some cases, the family court judge will appoint a private attorney to represent a child in a custody or parenting time (visitation) case. These attorneys are often called “minor’s counsel.”

Why might the court appoint an attorney for a child?

The court might appoint an attorney for a child for many different reasons. For example, if parents significantly disagree about issues of parenting time and a child is experiencing stress, the court might appoint an attorney to represent the child in the case.

What will minor’s counsel do?

Minor’s counsel will:

- Gather and present evidence about the best interests of the child;
- If the child wants, present the child’s wishes to the court; and
- Inform the court if the child wants to address the court.

Generally, minor’s counsel will also:

- Interview the child; and
- Review court files and records available to the parties and make additional investigation.

Minor’s counsel:

- Cannot be called as a witness but can bring witnesses for the child’s case;
- Can see a child’s mental health, medical, dental, and other health-care records, and school and educational records;
- Has the right to interview school personnel, caretakers, health-care providers, mental health professionals, and others who have assessed the child or provided care to the child; and
- Must be served with all documents in the case once appointed.

Who pays for minor's counsel?

In general, the parties pay for the attorney for their child, but sometimes the court will cover the cost

of minor’s counsel. The court must determine the reasonable amount for the attorney. The court must also decide about the ability of the parties to pay all or some of that amount. The court will review the parties’ financial information to make this decision. If the parties do not pay when they are required to, the attorney or the court could bring a case against them to collect the money. If the court finds that the parties are not able to pay all or some of the cost, the court must pay the part the parties can’t pay.

Who can ask that minor’s counsel be appointed?

Parties and their attorneys, other types of attorneys, the child or a relative of the child, or a child custody mediator, recommending counselor, or evaluator may ask the court to appoint minor’s counsel for the child. The court may also decide to appoint minor’s counsel without a request.

What will a court order for minor’s counsel include?

The court must make written orders when appointing and relieving counsel for a child.

Appointment orders must include the appointed counsel’s name, address, and telephone number; the name of the child for whom counsel is appointed; and the child’s date of birth.

Orders might also include:

- The child’s address, if appropriate;
- Issues to be addressed in the case;
- Case-related tasks that would benefit from the services of counsel for the child;
- Responsibilities and rights of the child’s counsel;
- Counsel’s rate or amount of compensation;
- Allocation of fees payable by each party or the court;
- Source of funds and manner of reimbursement for costs and attorney fees;
- Allocation of payment of attorney fees to one party subject to reimbursement by the other party;
- The terms and amount of any progress or installment payments; and

- The ability of the court to change the order on fees and payment.

When does the minor’s counsel stop representing the child?

Generally, the attorney keeps representing the child until the court decides otherwise or when the child turns 18 years.

Does the court have a list of attorneys who might be appointed?

The court may or may not maintain a list or panel of attorneys meeting the minimum qualifications to be appointed. The court may also appoint attorneys not on a list and may take into consideration factors including language, culture, and the special needs of the child.

What do I do if I have a complaint about minor's counsel?

Look in the court’s local rules or ask the court about its complaint procedures.

What kind of qualifications must attorneys have to be appointed?

An attorney must:

- Be an active member in good standing of the State Bar of California;
- Have professional liability insurance or demonstrate to the court that he or she is adequately self-insured;
- Have completed at least 12 hours of education and training on specific topics (see California Rules of Court, rule 5.242); and
- Have a certain amount of experience before being appointed and also receive at least 8 hours of additional training each year.

How does the attorney tell the court he or she is qualified?

The attorney must file a declaration with the court indicating compliance with all requirements no later than 10 days after being appointed and before beginning work on the case.