



State of New York
Supreme Court, Appellate Division
Third Judicial Department
Office of Attorneys for Children
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Director

FREQUENTLY ASKED QUESTIONS

Qualifications of Attorneys for Children

- Q. Who can be assigned as an Attorney for the Child in the Third Judicial Department?
- A. To be assigned as an attorney for a child, the attorney must be admitted to practice in New York State and designated by the Appellate Division, Third Department to represent children in Family Court proceedings and Supreme Court custody matters.
- Q. Are there additional requirements to serve as an Attorney for the Child?
- A. Yes. An attorney must be in good standing, and must meet the requirements of the Appellate Division, Third Department concerning introductory training and experience for attorneys for children. The introductory training requirement is met by attending the two-day seminar, "Introduction to Effective Representation of Children," held twice a year (usually in the Third Department in Albany in September and in the Fourth Department in Rochester in March). The experience requirement is met through participation, as counsel or with a mentor, in the major types of cases in which attorneys represent children. These requirements are detailed in section 835.2 (a) of the rules of the Appellate Division, Third Department (*Administrative Handbook*, pp. 11-12).

Additionally, an attorney who is employed full-time by any governmental agency is not eligible for panel membership in any county without the express written permission of the employer, Family Court and Appellate Division, Office of Attorneys for Children.

Following designation, an attorney must receive continuing legal education related to the representation of children to continue to serve as an Attorney for the Child. A wide range of seminars are offered by the Office of Attorneys for Children to help attorneys meet this requirement. Please see CLE/Seminar Schedule link on our web page.

- Q. How does an attorney begin the process of becoming an Attorney for the Child?
- A. By filing a completed panel application form with Family Court in the county where the attorney wishes to serve. The form is available from any Family Court, and is included in the *Administrative Handbook* (attachments section, Figure 1). Details of the application process can be found in section 835.2 (a) of the rules of the Appellate Division, Third Department (*Administrative Handbook*, pp. 11-12).
- Q. Can attorneys who are not members of a county panel be compensated for representing children?
- A. No. By statute, only duly-designated panel members may be compensated by the Office of Attorneys for Children.
- Q. Are guardians ad litem appointed for adults under CPLR article 11 compensated by the Office of Attorneys for Children?
- A. No. The Office of Attorneys for Children is authorized to pay for representation of children under Family Court Act § 249 only; it has no authority to compensate guardians ad litem for adults.

Compensation

- Q. Can the Attorney for the Child be paid before a case has concluded?
- A. Yes. Although compensation of the attorney typically occurs at the conclusion of a case, the Office of Attorneys for Children Compensation and Reimbursement Policies and Procedures require submission of interim vouchers if the duration of the proceeding extends beyond a year (*Administrative Handbook*, p. 29).
- Q. Can the Attorney for the Child be paid for work done after a case has concluded?
- A. Yes. Supplemental vouchers may be filed with the approval of the trial judge (*Administrative Handbook*, p. 30).
- Q. What is the current rate of reimbursement for mileage?
- A. For travel on or after 1/1/16, the mileage reimbursement rate is \$.54 per mile; for travel on or after 1/1/15, the mileage reimbursement rate is \$.575 per mile; from 1/1/14 to 12/31/14, the mileage reimbursement rate was \$.56 per mile; from 1/1/13-12/31/13, the mileage reimbursement rate was \$.565 per mile. .

Expert Services

- Q. Can an expert be retained to assist with representation of a child?
- A. Yes. Expenses of representation are authorized for reimbursement, including the cost of expert services.

Q. For what purposes might experts be retained?

A. An Attorney for the Child may retain experts to provide services directly related to the representation of their clients, such as case preparation assistance and testimony. However, the cost of expert services unrelated to representation, such as treatment or therapy for the child or for services to an individual other than the child, such as a parent who is a party to the proceeding, are not authorized.

Q. How does the Attorney for the Child retain an expert to provide representation-related services?

A. An expert is retained in the following manner:

- 1) When the need for services becomes apparent, the Attorney for the Child contacts the expert and reaches a tentative agreement on the specific services to be provided and their estimated maximum cost.
- 2) If services are to be provided jointly to the child and other participants in the proceeding, the Attorney for the Child requests the trial court to allocate the total cost of the services among the child and the other participants.
- 3) When the cost of the child's share will exceed \$1,000, the Attorney for the Child obtains advance approval from both the trial court and the Office of Attorneys for Children.
- 4) The Attorney for the Child confirms the agreement with the expert and authorizes the expert to perform the services.

For complete information, see *Administrative Handbook*, p. 33.

Q. How does an Attorney for the Child obtain advance approval for an expert services cost of more than \$1,000?

A. The Attorney for the Child completes an Experts Services and Representation Expense Preapproval Form (*Administrative Handbook*, attachments section, Figure 5) and submits it to the trial judge. After action by the trial judge, the form is transmitted to the Office of Attorneys for Children. If services are required immediately, the preapproval process can be initiated by telephone, fax or e-mail.

Q. Will the Office of Attorneys for Children pay the full cost of expert services provided jointly to the child and other participants in a proceeding, such as a psychological evaluation of an entire family in a custody case?

A. No. Only the portion of the expert services attributable to the representation of the child is authorized. When expert services are provided jointly to the child and other participants in a proceeding, the trial court will apportion the cost of services among the participants, and the Office of Attorneys for Children will pay the child's share of the total cost.

Q. Can experts be paid directly by the Office of Attorneys for Children?

A. Yes. See *Administrative Handbook*, p. 33.

Appeals

Q. Where are vouchers submitted for representation on appeal?

A. Directly to the Office of Attorneys for Children in Albany, together with a copy of the brief; no action by the trial court is required.

For further information, contact:
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