



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

Qualifications of Attorneys for Children

- Q. Who can be assigned as an Attorney for the Child (AFC) in the Third Judicial Department?
- A. To be assigned as an AFC, the attorney must be admitted to practice in New York State, in good standing, and designated by the Appellate Division, Third Department to represent children in Family Court proceedings and Supreme Court custody matters.
- Q. How do I become an AFC?
- A. To begin the process of becoming an AFC, an attorney must file a completed **panel application**, which can be found on the program's web page at <http://www.nycourts.gov/ad3/OAC/AdministrativeForms.html> with Family Court in the county where the attorney wishes to serve. In order to be eligible for panel membership an attorney 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 viewing the required list of on-demand videos and attending one day of live training, held twice a year (usually in the Third Department in Albany in the fall and in the Fourth Department in Rochester in the spring). The experience requirement is met through participation, as counsel or with a mentor (assigned by Family Court), in the major types of cases in which attorneys represent children (outlined on the panel application). An attorney who is added to the AFC panel is eligible for all assignments.

There is also a special **Advanced Juvenile Delinquency (AJD) panel** that is limited to felony assignments. The application for the AJD panel can be found in the Administrative Handbook, Figure 2, or on the program's web page at <http://www.nycourts.gov/ad3/OAC/AdministrativeForms.html>. Attorneys with sufficient relevant experience in criminal defense may satisfy the training requirement by taking the Raise the Age training.

Any 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 the Appellate Division, Office of Attorneys for Children.

Q. Are there ongoing requirements for panel membership?

A. Yes. Following initial designation, every two years an attorney must receive six hours of **continuing legal education**, related to the representation of children, in order to continue serving as an AFC. A wide range of seminars are offered by the Office of Attorneys for Children to help attorneys meet this requirement. Panel members are emailed directly with seminar registration information. Seminar information is listed on the web page at <http://www.nycourts.gov/ad3/OAC/cle.html>.

Additionally, in order to be eligible for redesignation, all panel members are required to submit to the Office of Attorneys for Children, by October 1 of each year, a **Panel Redesignation Application** which can be found in the Administrative Handbook, Figure 3, or on the program's web page at <http://www.nycourts.gov/ad3/OAC/AdministrativeForms.html>. The Panel Redesignation Application reflects and documents the desire to continue serving on the panel, knowledge of and compliance with the Summary of Responsibilities of the Attorney for the Child, familiarity with Compensation and Reimbursement Policies and Procedures, the applicability of Court Rule 835.2 regarding full-time government employment, and any significant information that our office should be aware of concerning the attorney's standing as a panel member.

Compensation

Q. How does the AFC get paid?

A. When the attorney is designated to a panel, payment information will be provided directly to the attorney. All panel members are required to use the **E-voucher system** which is a web-based voucher system for preparing and submitting compensation claims. The E-voucher system requires vouchers to be printed and submitted to the court for approval. After completing the voucher online, the voucher must be printed out, signed by the AFC and submitted to the court for approval with the judge's original signature.

Additionally, AFCs are required to keep contemporaneous time-keeping records sufficient to assure the accuracy of vouchers submitted. Time charged to vouchers in the E-voucher system must be reported in "**real time**", not in the standard tenths of hours. For example, for each activity, there must be a start time and time spent (in hours/minutes), instead of a decimal system billing in tenths of hours. The system will convert the "real time" and the voucher that is printed out will show tenths of hours.

- 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.
- Q. When should a voucher for payment be submitted?
- A. Pursuant to Court Rule 835.5 (*Administrative Handbook*, p. 15, 28), it is **required** that panel members submit annual interim vouchers (**every 12-14 months**) from the first activity in the case through the final activity in the case. However, vouchers for appellate work may only be submitted following the decision.
- Q. Can the AFC 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. The rate of reimbursement for mileage is automatically calculated by the electronic voucher system based upon the date of travel.

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 AFC may retain experts to provide services directly related to the representation of the client(s), 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 AFC 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 AFC 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 AFC 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 AFC obtains advance approval from both the trial court and the Office of Attorneys for Children.
 - 4) The AFC confirms the agreement with the expert and authorizes the expert to perform the services.

For complete information, see *Administrative Handbook*, pp. 33-35.

- Q. How does an AFC obtain advance approval for an expert services cost of more than \$1,000?
- A. The AFC completes an [Experts Services and Representation Expense Preapproval Form](#) (*Administrative Handbook*, Figure 4) 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 or email.

- 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. 35.

Appeals

- Q. Where are vouchers submitted for representation on appeal?
- A. Once the appeal has been decided, the voucher may be submitted directly to the Office of Attorneys for Children in Albany, together with a copy of the brief. Interim vouchers on appeals are not permitted.

For further information, contact:
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