

OFFICE OF ATTORNEYS FOR CHILDREN ADMINISTRATIVE HANDBOOK

New York State Supreme Court Appellate Division, Third Judicial Department

Hon. Elizabeth A. Garry
Presiding Justice

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Hon. L. Michael Mackey
Associate Justices



John W. Kraigenow, Director
Office of Attorneys for Children

September 29, 2023

OFFICE OF ATTORNEYS FOR CHILDREN ADMINISTRATIVE HANDBOOK

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John W. Kraigenow
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TO: Attorneys for Children
Third Judicial Department

FROM: John W. Kraigenow
Director, Office of Attorneys for Children

SUBJECT: Introduction to the *Administrative Handbook*

On behalf of Hon. Elizabeth A. Garry, Presiding Justice of the Appellate Division, Third Judicial Department, and the members of the Court, thank you for serving as an attorney for the child.

The representation of children is among the most challenging and satisfying experiences our profession offers, and we are grateful to you for joining with the Department's other attorneys for children in undertaking this important work.

The purpose of the Attorneys for Children Program is to provide high quality legal services for children. To accomplish this objective, the Office of Attorneys for Children compensates attorneys for their work and reimburses them for reasonable expenses associated with the representation of their clients, such as fees for mental health and child welfare experts, investigators, and process servers. In addition, our office provides a variety of support services for children's attorneys, including introductory and continuing legal education, litigation support and reference materials on a variety of children's law topics.

The Administrative Handbook is designed to familiarize you with the operation of our office and other components of the Attorneys for Children Program. I urge you and your staff to review these materials carefully.

The Office of Attorneys for Children is continuously seeking new ways to help you serve your clients. Your suggestions are always appreciated. In addition, if I can be of assistance in any aspect of your service as a child's attorney, please do not hesitate to contact me.

Again, we appreciate your willingness to be an attorney for the child, and we wish you the greatest success in this and every other aspect of your legal career.

PROGRAM SUMMARY

The Office of Attorneys for Children is an auxiliary agency of the New York State Supreme Court, Appellate Division, Third Judicial Department.

The office administers legal services for children in Family Court proceedings and Supreme Court custody matters. Attorneys in private practice are designated by the Appellate Division as members of attorney panels in each county, and are then appointed by Family Court Judges and Supreme Court Justices to represent children on a case-by-case basis.

Representation is also provided in some counties by offices operated under agreements between the Appellate Division and qualified attorneys, and in some counties under contracts between the Office of Court Administration and Legal Aid Societies (see p. 23).

In addition to overseeing panel and office operations, the office offers attorneys for children a wide range of support resources, including a comprehensive continuing legal education curriculum.

For further information contact:

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FUNCTION OF THE ATTORNEY FOR THE CHILD

RULES OF THE CHIEF JUDGE

PART 7. ATTORNEY FOR THE CHILD

Section 7.2 Function of the attorney for the child.

(a) As used in this part, "attorney for the child" means a law guardian appointed by family court pursuant to section 249 of the Family Court Act, or by the supreme court or a surrogate's court in a proceeding over which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto.

(b) The attorney for the child is subject to the ethical requirements applicable to all lawyers, including but not limited to constraints on: ex-parte communication; disclosure of client confidences and attorney work product; conflicts of interest; and becoming a witness in the litigation.

(c) In juvenile delinquency and person in need of supervision proceedings, where the child is the respondent, the attorney for the child must zealously defend the child.

(d) In other types of proceedings, where the child is the subject, the attorney for the child must zealously advocate the child's position.

(1) In ascertaining the child's position, the attorney for the child must consult with and advise the child to the extent and in a manner consistent with the child's capacities, and have a thorough knowledge of the child's circumstances.

(2) If the child is capable of knowing, voluntary and considered judgment, the attorney for the child should be directed by the wishes of the child, even if the attorney for the child believes that what the child wants is not in the child's best interests. The attorney should explain fully the options available to the child, and may recommend to the child a course of action that in the attorney's view would best promote the child's interests.

(3) When the attorney for the child is convinced either that the child lacks the capacity for knowing, voluntary and considered judgment, or that following the child's wishes is likely to result in a substantial risk of imminent, serious harm to the child, the attorney for the child would be justified in advocating a position that is contrary to the child's wishes. In these circumstances, the attorney for the child must inform the court of the child's articulated wishes if the child wants the attorney to do so, notwithstanding the attorney's position.

[PROMULGATED by order of the Chief Judge, Dated October 17, 2007]

STATEWIDE ADVISORY COMMITTEE ON COUNSEL FOR CHILDREN

SUMMARY OF RESPONSIBILITIES OF THE ATTORNEY FOR THE CHILD

While the activities of the attorney for the child will vary with the circumstances of each client and proceeding, in general those activities will include, but not be limited to, the following:

- (1) Commence representation of the child promptly upon being notified of the appointment;
- (2) Contact, interview and provide initial services to the child at the earliest practical opportunity, and prior to the first court appearance when feasible;
- (3) Consult with and advise the child regularly concerning the course of the proceeding, maintain contact with the child so as to be aware of and respond to the child's concerns and significant changes in the child's circumstances, and remain accessible to the child;
- (4) Conduct a full factual investigation and become familiar with all information and documents relevant to representation of the child. To that end, the lawyer for the child shall retain and consult with all experts necessary to assist in the representation of the child;
- (5) Evaluate the legal remedies and services available to the child and pursue appropriate strategies for achieving case objectives;
- (6) Appear at and participate actively in proceedings pertaining to the child;
- (7) Remain accessible to the child and other appropriate individuals and agencies to monitor implementation of the dispositional and permanency orders, and seek intervention of the court to assure compliance with those orders or otherwise protect the interests of the child, while those orders are in effect; and
- (8) Evaluate and pursue appellate remedies available to the child, including the expedited relief provided by statute, and participate actively in any appellate litigation pertaining to the child that is initiated by another party, unless the Appellate Division grants the application of the attorney for the child for appointment of a different attorney to represent the child on appeal.

[Approved by the Administrative Board of the Courts 10-4-2007]

**STATUTORY PROVISIONS
RELATING TO
REPRESENTATION OF CHILDREN**

FAMILY COURT ACT

Article 2, Part 4

ATTORNEYS FOR CHILDREN

§ 241. Findings and purpose

This act declares that minors who are the subject of family court proceedings or appeals in proceedings originating in the family court should be represented by counsel of their own choosing or by assigned counsel. This declaration is based on a finding that counsel is often indispensable to a practical realization of due process of law and may be helpful in making reasoned determinations of fact and proper orders of disposition. This part establishes a system of attorneys for children who often require the assistance of counsel to help protect their interests and to help them express their wishes to the court. Nothing in this act is intended to preclude any other interested person from appearing by counsel.

§ 242. Attorney for the child

As used in this act, "attorney for the child" refers to an attorney admitted to practice law in the state of New York and designated under this part to represent minors pursuant to section two hundred forty-nine of this act.

§ 243. Designation

(a) The office of court administration may enter into an agreement with a legal aid society for the society to provide attorneys to represent children in the family court or appeals in proceedings originating in the family court in a county having a legal aid society.

(b) The appellate division of the supreme court for the judicial department in which a county is located may, upon determining that a county panel designated pursuant to subdivision (c) of this section is not sufficient to afford appropriate services of attorneys for children, enter into an agreement, subject to regulations as may be promulgated by the administrative board of the courts, with any qualified attorney or attorneys to serve as attorneys for children for the family court or appeals in proceedings originating in the family court in that county.

(c) The appellate division of the supreme court for the judicial department in which a county is located may designate a panel of attorneys for children for the family court and appeals in proceedings originating in the family court in that county, subject to the approval of the administrative board of the courts. For this purpose, such appellate division may invite a bar association to recommend qualified persons for consideration by the appellate division in making its designation, subject to standards as may be promulgated by such administrative board.

§ 244. Duration of designation

(a) An agreement pursuant to subdivision (a) of section two hundred forty-three of this chapter may be terminated by the office of court administration by serving notice on the society sixty days prior to the effective date of the termination.

(b) No designations pursuant to subdivision (c) of section two hundred forty-three may be for a term of more than one year, but successive designations may be made. The appellate division proceeding pursuant to subdivision (c) of section two hundred forty-three, may at any time increase or decrease the number of attorneys for children designated in any county and may rescind any designation at any time, subject to the approval of the office of court administration.

§ 245. Compensation

(a) If the office of court administration proceeds pursuant to subdivision (a) of section two hundred forty-three of this chapter, the agreement shall provide that the society shall be reimbursed on a cost basis for services rendered under the agreement. The agreement shall contain a general plan for the organization and operation of the program for the provision of attorneys for children by the respective legal aid society, approved by the administrative board, and the office of court administration may require such reports as it deems necessary from the society.

(b) If an appellate division proceeds pursuant to subdivision (b) of such section two hundred forty-three, the agreement may provide that the attorney or attorneys shall be reimbursed on a cost basis for services rendered under the agreement. The agreement shall contain a general plan for the organization and operation of the program for the provision of attorneys for children by the respective attorney or attorneys, and the appellate division may require such reports as it deems necessary from the attorney or attorneys.

(c) If an appellate division proceeds pursuant to subdivision (c) of such section two hundred forty-three, attorneys for children shall be compensated and allowed expenses and disbursements in the same amounts established by subdivision three of section thirty-five of the judiciary law.

§ 246. Supervision by administrative board

The administrative board of the judicial conference may prescribe standards for the exercise of the powers granted to the appellate divisions under this part and may require such reports as it deems desirable.

§ 247. [Repealed]

§ 248. Appropriations

The costs of attorneys for children under section two hundred forty-five shall be payable by the state of New York within the amounts appropriated therefor.

§ 249. Appointment of attorney for child

(a) In a proceeding under article three, seven, ten, ten-A or ten-C of this act or where a revocation of an adoption consent is opposed under section one hundred fifteen-b of the domestic relations law or in any proceeding under section three hundred fifty-eight-a , three hundred eighty-three-c , three hundred eighty-four or three hundred eighty-four-b of the social services law or when a minor is sought to be placed in protective custody under section one hundred fifty-eight of this act or in any proceeding where a minor is detained under or governed by the interstate compact for juveniles established pursuant to section five hundred one-e of the executive law, the family court shall appoint an attorney to represent a minor who is the subject of the proceeding or who is sought to be placed in protective custody, if independent legal representation is not available to such minor. In any proceeding to extend or continue the placement of a juvenile delinquent or person in need of supervision pursuant to section seven hundred fifty-six or 353.3 of this act or any proceeding to extend or continue a commitment to the custody of the commissioner of mental health or the commissioner of people with developmental disabilities pursuant to section 322.2 of this act, the court shall not permit the respondent to waive the right to be represented by counsel chosen by the respondent, respondent's parent, or other person legally responsible for the respondent's care, or by assigned counsel. In any proceeding under article ten-B of this act, the family court shall appoint an attorney to represent a youth, under the age of twenty-one, who is the subject of the proceeding, if independent legal representation is not available to such youth. In any other proceeding in which

the court has jurisdiction, the court may appoint an attorney to represent the child, when, in the opinion of the family court judge, such representation will serve the purposes of this act, if independent legal counsel is not available to the child. The family court on its own motion may make such appointment.

(b) In making an appointment of an attorney for a child pursuant to this section, the court shall, to the extent practicable and appropriate, appoint the same attorney who has previously represented the child. Notwithstanding any other provision of law, in a proceeding under article three of this act following an order of removal made pursuant to article seven hundred twenty-five of the criminal procedure law, the court shall, wherever practicable, appoint the same counsel who represented the juvenile offender in the criminal proceedings.

§ 249-a. Waiver of counsel

A minor who is a subject of a juvenile delinquency or person in need of supervision proceeding or in any proceeding where a minor is detained under or governed by the interstate compact for juveniles established pursuant to section five hundred one-e of the executive law shall be presumed to lack the requisite knowledge and maturity to waive the appointment of an attorney. This presumption may be rebutted only after an attorney has been appointed and the court determines after a hearing at which the attorney appears and participates and upon clear and convincing evidence that (a) the minor understands the nature of the charges, the possible dispositional alternatives and the possible defenses to the charges, (b) the minor possesses the maturity, knowledge and intelligence necessary to conduct his or her own defense, and (c) the waiver is in the best interest of the minor.

§ 249-b. Rules of court

(a) The chief administrator of the courts, pursuant to paragraph (e) of subdivision two of section two hundred twelve of the judiciary law, shall promulgate court rules for attorneys for children. Such court rules shall:

1. prescribe workload standards for attorneys for children, including maximum numbers of children who can be represented at any given time, in order to ensure that children receive effective assistance of counsel comporting with legal and ethical mandates, the complexity of the proceedings affecting each client to which the attorney is assigned, and the nature of the court appearance likely to be required for each individual client; and

2. provide for the development of training programs with the input of and in consultation with the state office for the prevention of domestic violence. Such training programs must include the dynamics of domestic violence and its effect on victims and on children, and the relationship between such dynamics and the issues considered by the court, including, but not limited to, custody, visitation and child support. Such training programs along with the providers of such training must be approved by the office of court administration following consultation with and input from the state office for the prevention of domestic violence; and

3. require that all attorneys for children, including new and veteran attorneys, receive initial and ongoing training as provided for in this section.

(b) Appointments of attorneys for children under section two hundred forty-nine of this part shall be in conformity with the rules.

JUDICIARY LAW

§ 35. Assignment of counsel to indigent persons and appointment of physicians in certain proceedings

* * *

3. No counsel assigned pursuant to this section shall seek or accept any fee for representing the person for whom he or she is assigned without approval of the court as herein provided. Whenever it appears that such person is financially able to obtain counsel or make partial payment for the representation, counsel may report this fact to the court and the court may terminate the assignment or authorize payment, as the interests of justice may dictate, to such counsel. Counsel assigned hereunder shall at the conclusion of the representation receive compensation at a rate of one hundred fifty-eight dollars per hour for time expended in court, and one hundred fifty-eight dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred. For representation upon a hearing, compensation and reimbursement shall be fixed by the court wherein the hearing was held and such compensation shall not exceed ten thousand dollars. For representation in an appellate court, compensation and reimbursement shall be fixed by such court and such compensation shall not exceed ten thousand dollars. In extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

* * *

7. Whenever the supreme court or a surrogate's court shall appoint counsel in a proceeding over which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto pursuant to law, and under circumstances whereby, if such proceeding were pending in family court, such court would be authorized by section two hundred forty-nine of the family court act to appoint an attorney for the child, such counsel shall be compensated in accordance with the provisions of this section.

COUNTY LAW

§ 722-c. Services other than counsel

Upon a finding in an ex parte proceeding that investigative, expert or other services are necessary and that the defendant or other person described in section two hundred forty-nine or section two hundred sixty-two of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, is financially unable to obtain them, the court shall authorize counsel, whether or not assigned in accordance with a plan, to obtain the services on behalf of the defendant or such other person. The court upon a finding that timely procurement of necessary services could not await prior authorization may authorize the services nunc pro tunc. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them or to the person entitled to reimbursement. Only in extraordinary circumstances may the court provide for compensation in excess of one thousand dollars per investigative, expert or other service provider.

Each claim for compensation shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred, and reimbursement or compensation applied for or received in the same case from any other source.

**RULES OF COURT
RELATING TO
REPRESENTATION OF CHILDREN**

RULES OF THE CHIEF ADMINISTRATOR OF THE COURTS

§127.4 Compensation of Attorneys for Children.

Claims by attorneys for children for compensation, expenses and disbursements pursuant to section 245 of the Family Court Act and section 35 of the Judiciary Law shall be determined pursuant to the rules of the Appellate Division.

§ 127.5 Workload of the Attorney for the Child.

(a) Subject to adjustment based on the factors set forth in subdivision (b), the number of children represented at any given time by an attorney appointed pursuant to section 249 of the Family Court Act shall not exceed 150.

(b) For representation provided under an agreement pursuant to section 243(a) and (b) of the Family Court Act, the workload standards set forth in subdivision (a) may be adjusted based on such factors as:

- (1) Differences among categories of cases that comprise the workload of the office covered by the agreement;
- (2) The level of activity required at different phases of the proceeding;
- (3) The weighting of different categories and phases of cases;
- (4) Availability and use of support staff;
- (5) The representation of multiple children in a case;
- (6) Local court practice, including the duration of a case;
- (7) Other relevant considerations.

(c) The administrators of offices pursuant to such agreements shall be responsible for managing resources and for allocating cases among staff attorneys to promote the effective representation of children and to ensure that the average workload of the attorneys for children in the office complies with the standards set forth in subdivision (a) as modified by subdivision (b).

(d) For representation provided by a panel of attorneys for children pursuant to section 243 (c) of the Family Court Act, the Appellate Division may adjust the workload standards of subdivision (a) to ensure the effective representation of children.

(e) The Chief Administrator of the Courts, with respect to representation pursuant to section 243(a) of the Family Court Act, and the Appellate Divisions, with respect to representation pursuant to section 243 (b) and (c) of the Family Court Act, shall annually, at the time of the preparation and submission of the judiciary budget, review the workload of such offices and panels, and shall take action to assure compliance with this rule.

§ 127.6 Training of Attorneys for Children on Domestic Violence.

(a) Attorneys for children appointed pursuant to section 249 of the Family Court Act shall receive initial and ongoing training on domestic violence, including the dynamics of domestic violence, its effect on victims and on children, and the relationship between such dynamics and the issues considered by the court, including, but not limited to, custody, visitation and child support.

(b) For representation provided under an agreement pursuant to section 243(a) of the Family Court Act, the Chief Administrator of the Courts shall provide for development of training programs with the input of and in consultation with the state office for the prevention of domestic violence, and such training programs, along with the providers of such training, shall be approved by the Chief Administrator of the Courts.

(c) For representation provided under an agreement pursuant to section 243(b) of the Family Court Act or by a panel of attorneys for children pursuant to section 243(c) of the Family Court Act, the Appellate Divisions shall provide for development of training programs with the input of and in consultation with the state office for the prevention of domestic violence, and such training programs, along with the providers of such training, shall be approved by the Appellate Divisions.

(d) The Chief Administrator of the Courts, with respect to representation pursuant to section 243(a) of the Family Court Act, and the Appellate Divisions, with respect to representation pursuant to section 243(b) and (c) of the Family Court Act, shall establish procedures to assure compliance with subdivision (a) of this rule.

PART 1250 - PRACTICE RULES OF THE APPELLATE DIVISION

The four Judicial Departments of the Appellate Division adopted on December 12, 2017 and revised by joint order on June 29, 2018, [uniform rules of practice](#) that became effective on September 17, 2018.

By order dated June 26, 2018, the Third Department rescinded (22 NYCRR) part 800 and adopted a [new part 850](#) to supplement the statewide Practice Rules of the Appellate Division. The new part 850 became effective on September 17, 2018.

PART 822—ASSIGNMENT OF COUNSEL AND APPOINTMENT OF PHYSICIANS

§ 822.1 Assignment of Counsel

(d) Assignments of counsel by the supreme court or a surrogate's court to represent children in proceedings wherein compensation is authorized pursuant to Judiciary Law § 35(7) shall be made from a panel of attorneys for children designated under section 835.2(a) of this Title.

§ 822.4 Compensation of Counsel and Physicians in Excess of Statutory Limits

(a) This rule shall apply to all claims in this department, pursuant to section 35 of the Judiciary Law, for compensation in excess of the statutory limits for services rendered in a trial court, except for claims in excess of statutory limits by attorneys for children pursuant to section 245 of the Family Court Act and section 35 of the Judiciary Law.

(b) The claim of an attorney, physician or other person for compensation in excess of the statutory limits, in addition to the information required by statute, shall be supported by a sworn statement describing the circumstances deemed to be extraordinary.

PART 835—ATTORNEYS FOR CHILDREN

§ 835.1 Departmental Advisory Committee

The presiding justice shall appoint a departmental advisory committee consisting of at least one Supreme Court justice, one Family Court judge, one attorney for the child, one representative of a family and child welfare agency, one law school professor, one county attorney, and such additional persons as the presiding justice deems necessary to perform the functions of the advisory committee. The clerk of the Appellate Division, Third Judicial Department, shall be a member of the committee *ex officio*. The term of appointment shall be for two years. The departmental advisory committee shall oversee the operation of the attorneys for children program in this department and shall annually make recommendations to the presiding justice with respect to promulgation of standards and administrative procedures for improvement of the quality of representation by attorneys for children in the department.

§ 835.2 Panels of Attorneys for Children

(a) Initial Designation to a Panel.

(1) *Eligibility.* Except for the limitations set forth in subparagraph (b), an attorney is eligible for designation as a member of the panel of attorneys for children of a county of this department, including all assignments, when the attorney:

- (i) is a member in good standing of the Bar of the State of New York;
- (ii) has completed the required introductory training for attorneys for children conducted by the Appellate Division within one year of submission of the application;
- (iii) has attained experience in the representation of children by:
 - (a) substantial participation, either as counsel of record or as co-counsel with a mentor as provided in paragraph (5) of this subdivision in:
 - (1) a juvenile delinquency or person in need of supervision proceeding;
 - (2) a child abuse, child neglect, or termination of parental rights proceeding; and
 - (3) a custody or visitation proceeding; and
 - (b) participation as counsel or co-counsel in, or observation of, two hearings in Family Court at which testimony is taken; and
- (iv) has no other full-time employment by any governmental agency. 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.

(2) *Application.* An attorney may, at any time, apply for membership on a panel designated for a county in this department. Such an application shall be in the form prescribed by the Appellate Division, and shall be submitted to a Family Court judge of the county.

(3) *Action by the Family Court judge.* The Family Court judge shall review the application, and take one of the following actions:

- (i) When the judge determines that the attorney has met the eligibility requirements of paragraph (1) of this subdivision, and is otherwise qualified to provide appropriate representation for children, the judge shall approve the application and forward it to the Appellate Division with the recommendation that the attorney be added to the county panel.
- (ii) Except as provided in subparagraph (iii) of this paragraph, when the judge determines that the attorney has not met the eligibility requirements of paragraph (1) of this subdivision, the judge shall defer action on the application, forward a copy of the application to the Appellate Division, and refer the attorney to a mentor as provided in paragraph (5) of this subdivision;
- (iii) When the judge determines for good cause that an attorney should not be designated as a panel member, the judge shall deny the application in writing, stating the basis for the denial, regardless of whether or not the attorney has met the eligibility requirements of paragraph (1) of this subdivision. The attorney may request review of such denial by the Appellate Division.

(4) *Waiver of Eligibility Requirements.* The Appellate Division may waive the eligibility requirements set forth in subparagraphs (1) (ii) and (iii) of this subdivision when:

- (i) an attorney requests such waiver in writing, endorsed by a judge of Family Court; and
- (ii) the attorney has sufficient relevant experience in the practice of law to demonstrate clearly the ability to represent children effectively; provided, however, that an attorney added to a panel based on a waiver granted pursuant to this paragraph must complete the required introductory training conducted by the Appellate Division within one year of designation.

(5) *Mentors.* When a judge of Family Court has deferred action on the application of an attorney for membership on a panel of attorneys for children pursuant to subparagraph (3)(ii) of this subdivision, the judge shall designate an experienced panel member as a mentor to assist the attorney in meeting the eligibility requirements of subparagraph (1)(iii) of this subdivision, and to familiarize the attorney with the representation of children and the operation of the attorneys for children program. With the agreement of the mentor, the attorney may act as co-counsel in a proceeding specified in clause (1)(iii)(a) of this subdivision, to which the mentor has been assigned as attorney for the child, provided, however, that the mentor shall be the attorney of record in the proceeding and shall be responsible for all aspects of the representation. When the attorney has met the eligibility requirements, he or she shall so inform the Family Court judge, who shall then take action as provided in paragraph (3) of this subdivision.

(b) Designation to the Advanced Juvenile Delinquency (AJD) Panel for Juvenile Delinquency Proceedings in which a Felony is Alleged.

(1) *Definition.* The AJD Panel is comprised of experienced criminal defense attorneys who are trained as attorneys for children but eligible only for assignments in Juvenile Delinquency proceedings in which a felony is alleged, through conclusion of the matter.

(2) *Assignments.* Assignments to an attorney who is designated only to the AJD panel are limited to Juvenile Delinquency proceedings in which a felony is alleged.

(3) *Eligibility.* An attorney is eligible for designation to the AJD panel of attorneys for children of a county of this department when the attorney:

- (i) is a member in good standing of the Bar of the State of New York;
- (ii) has completed the required AJD training conducted by the Appellate Division; and
- (iii) has attained sufficient relevant experience in the practice of criminal law to demonstrate the ability to represent children effectively in felony cases; and has no other full-time employment by any governmental agency. 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 the Appellate Division, Office of Attorneys for Children.

(4) *Application.* An attorney may, at any time, apply for membership on the AJD Panel in a county in this department only to provide representation in Juvenile Delinquency proceedings in which a felony is alleged. Such application shall be in the form prescribed by the Appellate Division, and shall be submitted to a Family Court judge of the county.

(5) *Action by the Family Court judge.* The Family Court judge shall review the application, and take one of the following actions:

- (i) When the judge determines that the attorney has met the eligibility requirements of paragraph (3) of this subdivision, and is otherwise qualified to provide appropriate representation of children, the judge shall approve the application and forward it to the Appellate Division with the recommendation that the attorney be added to the county AJD panel.
- (ii) When the judge determines for good cause that an attorney should not be designated as an AJD panel member, the judge shall deny the application in writing, stating the basis for the denial. The attorney may request review of such denial by the Appellate Division.

(c) Redesignation of Panels.

(1) The Appellate Division shall, on or before January first of each year, designate a panel of attorneys for children for each county in the department from lists of attorneys approved with respect to their competency by the Family Court judges of such counties upon consideration of the following factors:

- (i) rapport with clients;
- (ii) case preparation;
- (iii) legal knowledge;
- (iv) vigor of advocacy;
- (v) punctuality; and
- (vi) any information contained in the annual panel redesignation application.

(2) In order to be eligible for panel redesignation, a current panel member must submit a panel redesignation application to the Office of Attorneys for Children on or before October 1st of each year. Such application shall be in a form prescribed by the Appellate Division. Provided the attorney has been found qualified for redesignation upon consideration of the factors of competency in subparagraphs (1)(i)-(v) of this subdivision, and has complied with the appropriate training and education requirement set forth in section 835.4(b) of this Part, the application shall be granted and the panel member redesignated to the panel.

(3) When a Family Court judge determines that a current panel member should not be redesignated to the county panel, the judge shall submit to the Appellate Division a written recommendation to that effect, setting forth the basis of the recommendation with specific reference to the factors of competency in subparagraphs (1)(i)-(v) of this subdivision. The Appellate Division shall provide written notice of the recommendation and a copy of the written recommendation to the panel member, who may submit to the Appellate Division a written response and such additional documentation as the panel member believes may assist the Appellate Division in considering the judge's recommendation.

(d) Limitations on Panel Membership. When adequate numbers of attorneys are available in a county:

- (1) only the names of attorneys who reside or maintain an office in the county should appear on the panel list for that county; and
- (2) The Family Court judge or judges of the county may decline to designate additional attorneys to the panel.

(e) Removal from the Panel. An attorney may, at any time, apply to a Family Court judge of the county in which he or she serves on a panel to have his or her name removed from the panel list. Upon receipt of such request, the Family Court judge may make a written recommendation to the Appellate Division that the attorney's name be removed; upon receipt of such recommendation, the Appellate Division shall remove the attorney's name from the panel list, if appropriate. If the Family Court judge denies such request, such denial shall be in writing and state the reasons for the denial. The attorney may request review of such denial by the Appellate Division. Notwithstanding the provisions of subdivision (b) of this section, a Family Court judge may, at any time, recommend to the Appellate Division the removal of an attorney's name from a panel for good cause, including, but not limited to, misconduct or lack of diligence in performing assignments. The Appellate Division may, on its own motion at any time, remove an attorney's name from a panel.

§ 835.3 Assignment of Attorneys for Children

(a) Any attorney designated to a panel in a county may also be assigned as an attorney for the child in any other county in the Third Department, provided the assigning Family Court judge has obtained the prior approval of a Family Court judge of the county in which the attorney has been designated to a panel and of the Appellate Division.

(b) The following factors, among others, should be considered when assignments are made, subject to the discretion of the appointing judge:

- (1) the experience and qualifications of the attorney;
- (2) the nature and difficulty of the case;
- (3) continuity of representation of the minor in successive proceedings; and
- (4) that assignments among panel attorneys are made in a fair and impartial manner.

(c) An attorney designated only to the AJD panel is eligible for assignments only in Juvenile Delinquency proceedings in which a felony is alleged.

(d) No attorney, including one who serves as a judge or justice of a city, town or village court, or law clerk to a judge or justice, shall be assigned or accept assignment in any court as an attorney for the child when such assignment may involve a legal or ethical conflict of interest. An attorney who serves as district attorney, county attorney, or municipal corporation counsel, or as an assistant in any such office, shall not be assigned or accept assignment in any court as an attorney for the child in the county where the attorney so serves in any type of proceeding in which such office could represent a party. Whenever an attorney accepts employment in any of the above offices, the attorney shall inform the Family Court of any county in which he or she serves on a panel of such employment. The attorney may complete any matter previously assigned, provided the assigning judge approves of the completion of such assignment and provided completion of such assignment involves no legal or ethical conflict of interest.

(e) An attorney who is employed full time with any governmental agency cannot be assigned or accept assignment in any court as an attorney for the child without the express written permission of the employer, Family Court and Appellate Division, Office of Attorneys for Children. An attorney may complete any matter assigned prior to the attorney obtaining such full-time employment, provided the completion of the assignment involves no legal or ethical conflict of interest and with the express written permission of the employer, Family Court and Appellate Division, Office of Attorneys for Children.

§ 835.4 Training and Education

(a) Attorneys for children shall be expected to be thoroughly familiar with:

- (1) provisions of the Family Court Act and relevant provisions of the Domestic Relations Law, Social Services Law, Penal Law and Criminal Procedure Law;
- (2) the basic principles of child development and behavior;
- (3) the existence and availability of community-based treatment resources and residential facilities; and
- (4) recent case law and legislation relating to the foregoing.

(b) To be eligible for redesignation to any panel of attorneys for children in this department pursuant to section 835.2(b) of this Part, a panel member shall have completed within the preceding two years at least six hours of training and education sponsored or co-sponsored by the Appellate Division, Third Department. If prior approval is obtained from the Appellate Division, Third Department, by the attorney or the sponsoring organization, attendance at an appropriate educational and training program may be substituted. This biennial continuing education and training requirement may also be fulfilled by (1) viewing video recordings approved for such purpose by the

Appellate Division, Third Department, and filing with the Appellate Division, Third Department, a certification attesting to such a viewing or (2) attendance at six hours of introductory training and education as described in section 835.2(a)(1)(ii) of this Part. For good cause shown and upon the written recommendation of a Family Court judge, the Appellate Division, Third Department, may waive or defer the training and education requirement set forth herein.

§ 835.5 Compensation

(a) Claims by attorneys for children for services rendered pursuant to Family Court Act section 245 shall be submitted for approval to the Family Court judge on forms authorized by the Chief Administrator of the Courts; after approval or modification, the Family Court shall forward the claim to the Appellate Division for approval and certification to the Comptroller for payment. A voucher for services to a client(s) in a case, including all proceedings (except appeals) pending as to the client(s), must be submitted every 12-14 months from the date of the first activity and every 12-14 months thereafter through the final activity in the case. Appellate vouchers may only be submitted once, following the decision, but in no event later than 12 months from the date of the decision. The Appellate Division reserves the right to deny any voucher submitted outside the prescribed time frame.

(b) Claims for compensation in excess of the statutory limits set by Family Court Act section 245 and Judiciary Law section 35 shall be accompanied by a sworn statement by the attorney describing the nature of the proceeding, specifying the time and services rendered and expenses incurred, and detailing the circumstances deemed to be extraordinary justifying a fee in excess of the statutory limits. In the absence of the attorney's affidavit in support of the excess fee, compensation in excess of the statutory limits shall not be allowed.

(1) The following are among the factors which may be considered in determining whether extraordinary circumstances exist justifying a fee in excess of the statutory limits:

- (i) unusually complex factual or legal issues;
- (ii) novel issues of law requiring extensive legal research;
- (iii) lengthy and necessary trial or other in-court proceedings which alone raise the compensation claim above statutory limits; and
- (iv) other unique or unusual circumstances which required the attorney for the child to spend additional time on a case raising the compensation claim above statutory limits.

(2) The expenditure of time alone will not ordinarily be considered an extraordinary circumstance warranting additional compensation.

(c) When an attorney for the child expects the reasonable expenses of representation allowable pursuant to Family Court Act section 245 and Judiciary Law section 35 to exceed \$1,000, for investigative, expert or other services, the attorney, before incurring such expenses, shall obtain the approval of the judge presiding in the proceeding and of the Appellate Division.

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COMPENSATION AND REIMBURSEMENT POLICIES AND PROCEDURES

I. Introduction

The Office of Attorneys for Children is responsible for compensating children's attorneys and for paying reasonable expenses of representation of their clients. Attorneys for children provide a valuable service to the community by representing its most vulnerable members. Because payment for these services comes from public funds, attorneys should be cognizant that the fees they charge cannot be equal or greater than what they would charge if they had been retained counsel.

This section describes the policies and procedures according to which payments are made. The policies in this section apply to all attorney vouchers. The mechanics of how to use the E-voucher system is contained in a separate document entitled, *Office of Attorneys for Children E-voucher Manual*, available on-line at <http://www.nycourts.gov/ad3/OAC/EVoucherManual.pdf> or by mail on request to the Office of Attorneys for Children, together with an instructional video at <http://www.nycourts.gov/ad3/OAC/E-VoucherVid.html>.

II. Payment Policies

A. Compensation for legal services

1. Panel membership required
 - a) An attorney must be a member of a county panel of attorneys for children to be compensated by the Office of Attorneys for Children for representing a child in Family, Supreme or Surrogate's Court.
 - b) Panel members must comply with the attorney registration requirements of Judiciary Law § 468-a, and are expected to notify both the OCA Attorney Registration Unit and the Office of Attorneys for Children of any change of address or contact information and to update the attorney profile in the E-voucher system and SFS (Statewide Financial System).
 - c) Failure to comply with these Compensation and Reimbursement Policies and Procedures may affect the attorney's eligibility for panel membership.
2. Time records
 - a) Attorneys for children must maintain "real time" records, including start time (time of day) and actual time spent (in hours and minutes, not tenths of hours), and such records must be sufficient to assure that vouchers submitted reasonably and accurately reflect services provided to their clients.
 - b) All vouchers are subject to audit both before and after payment.
 - c) In addition to time-keeping records, panel members are required to maintain sufficient documentation to ensure justification of vouchers. Such records should be created at or about the time of the services performed and are separate from the voucher.
3. Compensation rates
 - a) Representation by attorneys for children is compensated at the statutory rate of \$158 per hour.
4. Client contact
 - a) One of the primary responsibilities of an attorney for the child is to contact, interview, regularly meet with and remain accessible to your client, regardless of the age of the child client. Every voucher, including appellate vouchers, should contain information indicating that the attorney has met with his/her client.

- b) In the event the attorney for the child has not met with his or her client(s), i.e., there is no time billed under Activity Code B "Client Contact" on the voucher, the attorney must file an affirmation setting forth the reason(s). The affirmation is required in order to submit the voucher. The age of the child will not be accepted as a valid reason for lack of client contact. Generally, case settlement, alone, does not justify lack of client contact.
 - c) Generally, only client contact should be billed under Activity Code B. Failure to do so may result in the return of the voucher to the attorney for clarification.
 - d) The Office of Attorneys for Children reserves the right to request additional documentation to support any claim for compensation or to disallow any claim that fails to include client contact.
- 5. In-court and out-of-court time
 - a) In-court time is time spent in court for a court appearance.
 - b) In-court time includes:
 - i. Time spent in the presence of the judge, either in the courtroom or in chambers;
 - ii. Time spent in a court-ordered conference at court facilities in conjunction with an appearance, whether or not the judge is present; and
 - iii. Time spent waiting at court facilities to appear before the judge, from the time the appearance is scheduled until the case is called.
 - c) All other time expended in representing a client, including time at court facilities for purposes other than an appearance before a judge, such as for reviewing files, conferencing with parties and/or attorneys before or after a court appearance, is out-of-court time.
 - i. Out-of-court time includes the actual amount of time it takes for the specific work done, which should be specifically set forth. It is not permissible to build into every case ministerial work that constitutes the office overhead of opening or closing a file. It is not permissible to bill simply to "open" or "close" a file.
 - ii. The maximum claim for in and out-of-court services in a single day is 12 hours, unless the voucher is accompanied by a brief statement of the reason services of greater length were required. If more than 12 hours is billed on a voucher, the attorney will be prompted for an affirmation explaining the circumstances.
- 6. Representation in collateral matters
 - a) An attorney for the child may be compensated for representation of a client in a legal or administrative matter collateral to the court proceeding for which the attorney was assigned when:
 - i. The collateral matter arises from the same circumstances as the assigned court proceeding; and
 - ii. Representation by the attorney in the collateral matter is required to assure the most favorable outcome for the client in the assigned court proceeding.
- 7. Voucher preparation

Time spent preparing vouchers is not compensable. Time spent preparing other administrative forms, such as the pre-approval form or the minute order form, including discussions with the Office of Attorneys for Children, is not compensable.

8. Double-billing

- a) Double-billing is the prohibited practice of rendering legal services or incurring travel time on multiple cases in a given period, and then requesting payment for the entire period on the voucher for each case. For example, waiting at court one hour for two cases to be called, and then requesting payment for one hour for each case, would be double-billing; or traveling to court for two cases and billing the full time to each case, would be double-billing.
- b) Double-billing is strictly prohibited. Time expended on multiple cases must be apportioned among those cases.

9. Continuity of Representation

- a) An appointment as attorney for the child is individual to the attorney, and is not an appointment of a firm with which the attorney may be associated.
- b) Under ordinary circumstances, only the appointed attorney may provide services to the child client pursuant to the appointment.
- c) Only legal work done by the assigned attorney is billable (unless a substitute panel member is authorized). Work done by anyone else, including an associate, paralegal, secretary, other employee, or any other person, is not compensable.

B. Expenses of Representation

1. In general

- a) The Office of Attorneys for Children will pay reasonable expenses of representation, that is, out-of-pocket expenses incurred by an attorney for the child on behalf of a client, but not office overhead costs.
- b) If you are seeking reimbursement of out-of-pocket expenses on your voucher (as opposed to having the Office of Attorneys for Children pay an expense directly, such as for an expert) you must submit the invoice as well as a copy of the method of payment (e.g. canceled check, credit card receipt).
- c) Expenses for in-office computer-assisted legal research (e.g. Westlaw and Lexis), stationery, e-mail, preparing or receiving facsimile (fax), and local phone call charges are considered office overhead costs, and will not be reimbursed, although associated long distance charges are reimbursable. Time spent on legal research is billable.
- d) The Office of Attorneys for Children will consider paying the cost of an evaluation, if requested by the attorney for the child, but is not authorized to pay for any treatment, even of the child.
- e) As an Attorney for the Child, you have **automatic poor person status**. Most clerks should know this, but they may not be aware simply from your filing, that you represent a child. Therefore, you should make this known, or state in your papers that you have poor person status and are not subject to those fees. In the alternative, you should make a motion for poor person status so that you will not have to pay any fees. If a voucher includes filing fees, it will not be paid but you may seek reimbursement from the court where papers were filed.

2. Travel

- a) Driving time for travel in excess of 5 miles round trip, including travel to and from court, is reimbursable. Travel time and mileage under 5 miles round trip is not billable. The voucher should include the destination and the purpose of the travel. Travel time includes drive time only. Time spent walking or parking is not reimbursable. Travel time should not be combined with other activities.

- b) Reimbursement for travel and mileage will be as reflected by the shortest route on MapQuest. Time spent getting directions is not billable. Should there be construction, traffic, weather, detours or other delays, the extended time or mileage will not be compensable or reimbursed.
 - c) If the attorney is otherwise entitled to bill for travel, the attorney may bill for travel between court appearances so long as there is at least 30 minutes spent in the office in between court appearances.
 - d) Travel time and mileage billed must be from the address listed in the Attorney Profile in the E-voucher system. If the address listed is a post office box, the Office of Attorneys for Children must be provided with the physical address of the attorney's office.
 - e) Given that panel membership is restricted to attorneys who reside or have an office in the county (835.2[c]), Family Court may, in its discretion, limit travel costs for "out-of-county" panel members.
 - f) Time spent traveling to a copy center (such as Staples), Fed Ex, or the post office is considered office overhead, not "legal" work, and cannot be billed as such.
 - g) Mileage is calculated automatically by the E-voucher system.
 - h) Tolls are reimbursable with receipts.
 - i) Parking fees are reimbursable to \$5 without receipts.
 - j) Other travel expenses, including food and lodging, as well as out-of-state travel, are not reimbursable in the absence of express prior approval by the Office of Attorneys for Children.
3. Trial Transcripts (see p. 36 for instructions on how to obtain trial transcripts)
- a) Transcript charges from a court reporter and transcription charges from a transcription service will be reimbursed at the statutory rate of \$2.50 per page, plus \$1.00 per copy. [Rules of the Chief Administrator §108.2] The attorney must reach an agreement with the provider of the transcript on the specific services to be provided and their estimated cost in advance.
 - b) Any charges for transcripts in excess of the statutory rate must be pre-approved by the Office of Attorneys for Children. The Office of Attorneys for Children will not pay for an expedited rate.
 - c) Transcription charges in excess of \$500 must be pre-approved by the Office of Attorneys for Children, unless the appellant is the child client in which case no permission is required.
 - d) Before incurring any expense, the attorney for the child should inquire of the other attorneys if cost sharing is possible.
4. Miscellaneous expenses
- a) Photocopying expenses will be reimbursed at the rate of \$.15 per page. Time spent photocopying is considered office overhead and not reimbursable.
 - b) Printing e-mails and faxes are not reimbursable. Time spent faxing is considered office overhead and not reimbursable.
 - c) Other itemized out-of-pocket expenses, such as long-distance phone charges and postage, are reimbursable without additional documentation to a maximum of \$15.
 - d) Reimbursement claims for more than \$15 must be documented by receipt or some other proof of payment.

5. Pre-approval of expenses over \$1,000
 - a) Whenever an attorney for the child expects expenses of representation to exceed \$1,000 (\$500 for transcripts), he or she must obtain the prior approval of the judge presiding in the proceeding and of the Office of Attorneys for Children.
 - b) The pre-approval requirement applies whether the expense will be paid through reimbursement on the attorney's voucher or through direct payment by the Office of Attorneys for Children as explained in section V below.
 - c) To obtain pre-approval of expenses, complete an Expert Services and Representation Expense Pre-approval Form (Figure 4), obtain the authorization and allocation of the child's share of the expense from the judge presiding in the proceeding, and forward the form to the Office of Attorneys for Children. The form will be reviewed and returned to the attorney, generally within 24 hours.
 - d) As set forth in Section A. 7 above, time spent obtaining pre-approval or instruction on how to do so, is not billable.

III. Preparation of Vouchers

A. Introduction

1. Filing of E-voucher required
 - a) To receive compensation for legal services to a client, an attorney for the child must have access to the Internet and an e-mail address. In order to obtain access to the E-voucher system, you must register online by requesting a user name and password from the Office of Attorneys for Children by e-mailing ad3-oac-vouchers@nycourts.gov. For more explicit instructions on how to use the e-voucher system, see Office of Attorneys for Children E-voucher Manual and instructional video, available online at <http://www.nycourts.gov/ad3/OAC/Vouchers.html>.
2. When to submit vouchers - **PLEASE NOTE!**
 - a) **Annual billing required**

Pursuant to Court Rule § 835.5 (see p. 15), a voucher for services to a client(s) in a case, including all proceedings pending as to the client(s) [except appeals, as set forth below and in paragraph (8)], **must be submitted every 12-14 months from the date of the first activity** and every 12-14 months thereafter through the final activity in the case. **PLEASE NOTE THAT THIS RULE IS STRICTLY ENFORCED.** **The Appellate Division will exercise its right to deny a voucher submitted outside this time frame; and any late voucher will be denied in full.** Attorneys should diary the file for billing 12 months from the date of assignment, and every 12 months thereafter. Appellate vouchers may only be submitted once, following the decision, but in no event later than 12 months from the date of the decision.
 - b) Late vouchers

In addition to the strict enforcement of Court Rule 835.5, the Office of Attorneys for Children will neither accept any voucher for payment nor pay any voucher if it is submitted three years or more after the last valid date of service on the voucher.
3. Interim vouchers

To submit an interim voucher, at or prior to 12 months, please email the document ID number with the request for submission to the Office of Attorneys for Children at ad3-oac-vouchers@nycourts.gov. Interim vouchers are not accepted for appellate vouchers.

4. Integrated Domestic Violence Court (IDV) vouchers
 - a) Cases that start in Family Court and are subsequently transferred to IDV Court are regarded as separate proceedings requiring preparation and submission of separate vouchers.
 - b) Subject to annual billing rules set forth in paragraph III(2)(a) above, a voucher should be submitted to Family Court for all activities completed in Family Court up to the date of transfer. A voucher should be submitted to Supreme Court for all activities from the date of transfer to the completion of the case. Even if the same judge hears both matters, two separate vouchers must be submitted.
 - c) Please note: Failure to separate the vouchers as indicated above, will result in the voucher being returned for correction which will require re-entering all the time. To avoid this problem, please make sure to bill separately for each portion.
5. Drug and Family Treatment Court
 - a) In drug and treatment court, the attorney for the child should be entered as the assigned attorney in UCMS, even if Family Court uses the same attorney for all cases on a given day, regardless of whether that attorney is assigned on the underlying case. The attorney for that day should be listed as assigned to all cases and as appearing on all cases for that day.
 - b) If Family Court does not enter treatment court dates in UCMS, you may bill these appearances as "H-all other out-of-court".
 - c) Attorneys for children who are assigned to handle Family Treatment Court must comply with the annual billing requirement set forth in paragraph III(2)(a) above.
6. Raise the Age vouchers
 - a) For cases sent to Probation Adjustment
The attorney will select "Supreme Court" (not the "Family Court" because there is no Family Court Docket number), then select the *new* Proceeding Type entitled "RTA – Probation Adjustment" and enter the Felony Youth Complaint (FYC) Docket number that was assigned in the Superior Court Youth Part.
 - b) For cases removed directly to Family Court
Cases that are sent directly to Family Court without going to Probation Adjustment will be billed as they normally would for a JD proceeding by selecting "Family Court" and the appropriate Proceeding Type (ex: D – Juvenile Delinquency or E - JD Designated Felony) and entering the Family Court Docket number.
7. Substitute vouchers
 - a) When required by unavoidable circumstances, the appointed attorney may arrange to have a substitute attorney for the child appear in court on behalf of the child client, with the prior approval of the court and the client (where the age and maturity of the client permit), if the appearance involves procedural or administrative issues unrelated to the substantial interests of the client.
 - b) The voucher submitted by the appointed attorney at the conclusion of the proceeding should not include a claim for the services of a substitute attorney.
 - c) A substitute attorney for the child must be a panel member and should prepare his/her own voucher for such services, indicating thereon the name of the attorney being substituted. [Please note that when preparing a substitute E- voucher, a warning is issued by the E-voucher system stating that the attorney was not present in court. This warning refers to the assigned attorney and not the substitute attorney.]

d) Oral argument on appeal is considered a substantive matter and substitutions are generally not allowed. However, in addition to the requirements set forth above, if submission is not an appropriate alternative, the appointed attorney may seek permission from the Appellate Division by application to the Court to have a substitute attorney for the child present oral argument.

8. Supplemental vouchers

With the prior approval of the judge presiding, a supplemental voucher may be filed when additional legal services are required after the conclusion of a proceeding, such as monitoring implementation of the dispositional order.

9. Appeal vouchers

A trial court action and a subsequent appeal are regarded as separate proceedings, requiring preparation and submission of separate vouchers. Please make sure to select "Appellate Division", in the drop down box when choosing the appropriate court; and choose "AP" (appeals) as the proceeding code. The completed appellate voucher should be sent directly to the Office of Attorneys for Children for payment. Interim vouchers are not permitted on appeals. Appellate vouchers are reviewed by the Director or Deputy Director of the Office of Attorneys for Children and a Justice of the Appellate Division.

B. Voucher preparation instructions

For detailed instructions on how to use the E-voucher system, please see the E-voucher Manual and instructional video located on our web page at nycourts.gov/ad3/oac.

1. Real Time

Time charged to vouchers in the E-voucher system must be in "real time", meaning that for each activity, a start time (time of day) and the **actual** amount of time spent (in hour/minutes) must be entered, instead of a decimal system billing in tenths of hours. No minimum billing is permitted in any increment. The voucher that is printed out, signed by the attorney, and submitted to the court will print out in tenths of hours and the actual time entered will not appear on the voucher. The system does not permit the same time slot, or any portion of it, to be billed again on the same day.

2. Proceeding Codes:

(A) Adoption	(M) Consent to Marry
(AP) Appeals	(N) Abuse/Neglect
(AS) Adoption Surrender	(O) Family Offense
(B) Commitment of Guardianship and Custody (SSL §§ 384, 384-b)	(P) Paternity
(D) Juvenile Delinquency	(Q) Visitation
(E) J.D.--Designated Felony	(S) PINS
(F) Support	(U) Uniform Support of Dependents Law
(G) Guardianship	(V) Custody
(K) Foster Care Review	(W) Extension of Placement
(L) Foster Care Approval	(Z) Miscellaneous

3. Activity Codes

a) Out-of-Court Activities

In general, your voucher should include a brief description of the services provided including each client meeting, whether at court or elsewhere, together with the specific amount of time you are billing for such service. **Do not combine activities, especially for client contact or travel.** For the following Activity Codes indicated, the summary **must** include the following information:

- A. Review Documents:
Describe documents reviewed, e.g., "Review petition and file";
- B. Client Contact:
Indicate place or other activity constituting client contact;
(Meetings with parents should be billed separately.)
- C. Travel:
Indicate place of departure and destination and purpose;
(Other activities should not be combined with travel.)
- D. Phone/Correspondence:
Indicate other party and subject;
- E. Legal Drafting:
Indicate document type and subject;
- F. Legal Research:
Indicate subject **and purpose** of the research
(e.g., preparing summation; memorandum of law);
- G. Investigation:
Indicate what is being investigated and the purpose;
- H. Out-of-Court All Other:
Covers any work you may have been doing related to your client.
State the activity.
- P. Expenses:
Following brief description, e.g., "Mileage" (include where to/from), "Copies", and so forth, enter amount at right margin.

b) In-Court Activities (do not use the same code for all court appearances)

- J. Initial appearance;
- K. Pre-trial Hearings:
Indicate for what you appeared in court;
- L. Fact-Finding;
- M. Disposition;
- N. In-Court All Other:
Indicate for what you appeared in court.

C. Excess Compensation Claims

1) Claims exceeding \$10,000

- a) Vouchers requesting compensation in excess of the statutorily-established \$10,000 limit must be accompanied by an affidavit or affirmation detailing the specific "extraordinary circumstances" that underlie the claim, that is, the characteristics of the case that necessitated an expenditure of time resulting in a claim in excess of the statutory limit. Such factors may include:
 - i. Complex factual issues; for example, mutual allegations of serious wrongdoing by bitterly hostile parties in a custody proceeding, requiring extensive investigation and intervention by the attorney for the child;
 - ii. Complex legal issues; for example, evidentiary consideration surrounding the forensic use of a novel scientific concept; and
 - iii. Extensive in-court time.

- b) This listing is not intended to be exhaustive. However, the affidavit should not merely reiterate the factors or that the time claimed in the voucher was indeed expended. The affidavit should include *specifics* describing in detail the factual and/or legal circumstances in the case that was truly extraordinary and required the expenditure of that time. A perfunctory statement to that effect will not suffice.
- c) The \$10,000 limit applies only to claimed compensation, not to expenses of representation. If the voucher total minus expenses of representation is less than \$10,000, the claim for compensation does not exceed the statutory limit, and no affidavit is required.
- d) All excess compensation claims are reviewed by the Director or Deputy Director of the Office of Attorneys for Children and the Presiding Justice of the Appellate Division.

IV. Submission of Vouchers

A. Preparation of copies

1. Vendor ID

Your Vendor ID number (obtained by submission of Substitute W-9 form to the Office of Attorneys for Children) must be included and will be automatically pre-populated on the voucher.

2. Submission

While the data on vouchers prepared on the E-voucher system is submitted electronically, the voucher, itself, is not. When the voucher is ready to be submitted for payment, click "Submit and Print" and the printed version of the voucher should be signed by the attorney and submitted to the appropriate court for approval. Appeal vouchers should be submitted directly to the Office of Attorneys for Children.

a) Number of copies

The attorney should prepare an additional copy of the voucher together with any supporting documentation (receipts, any required affidavits - lateness, extraordinary circumstances, client contact) for the court. The attorney should retain one copy and submit the original and a copy to the court.

b) Name of the Judge

It is helpful if you indicate the name of the judge on the voucher. At present, the E-voucher system does not include that information. Consequently, you may have to handwrite the judge's name on the submitted voucher.

B. Processing by the court

- 1. For representation in a trial court, the judge who presided in the proceeding will review the voucher and sign the original.
- 2. Following action by the judge, the court will retain one complete copy of the voucher and forward the original voucher to the Office of Attorneys for Children.
- 3. For representation in an appellate court, the voucher will be reviewed by the Director or Deputy Director of the Office of Attorneys for Children and a Justice of the Appellate Division.

V. Expert Services

A. In General

The Office of Attorneys for Children is authorized to pay reasonable expenses of representation, including the cost of expert services to the child, such as investigators, physicians, mental health professionals and social workers. The Office of Attorneys for Children encourages children's attorneys and experts to contact the office for assistance with obtaining and paying for such services.

B. Retaining an Expert

To retain an expert, an attorney for the child completes the following steps:

1. Initial Contact with Expert

When the need for representation-related services becomes apparent, the attorney contacts the expert and reaches a tentative agreement on the specific services to be provided and their estimated maximum cost.

a) Representation-related Services

The Office of Attorneys for Children is authorized to pay only for services related to the client's representation. The Office of Attorneys for Children cannot pay for services for any other purpose, such as treatment or therapy for the child.

2. Jointly-Provided Services: Allocation of Cost by Trial Court

If expert services are to be provided jointly to the child and other participants in the proceeding, the child's attorney must request that the trial court allocate the total cost of the services among the child and the other participants.

a) Responsibility of Office of Attorneys for Children

The Office of Attorneys for Children is responsible only for the portion of the total cost of expert services attributable to the representation of the child.

b) Parents' Share of Cost

If parents who are parties to the proceeding are unable to pay their share of the cost, their expense is the responsibility of the county under County Law §722-c, not of the Office of Attorneys for Children. Where appropriate, attempts should be made to seek contribution from the adult litigants.

c) No Services to Child

When the services are to be provided solely to participants other than the child, the Office of Attorneys for Children cannot pay any portion of the cost.

3. Pre-approval of Expenses Over \$1,000 By Trial Court and Office of Attorneys for Children

When the cost to the Office of Attorneys for Children will exceed \$1,000 (\$500 for transcripts), the attorney must obtain pre-approval from both the trial court and the Office of Attorneys for Children. It is not permissible to bill for the preparation of this form.

a) Complete Pre-approval Form

The attorney for the child completes Expert Services and Representation

Expense Pre-approval Form (Figure 4 also available on the Office of Attorneys for Children web page).

- i. Sections labeled "Services to be Performed" and "Explain Need for Services" must contain information in enough detail to make clear the specific services to be performed and why they are necessary. "Court-ordered evaluation" or similar statement is not sufficient.
 - ii. "Total Maximum Cost" must contain a reasonable estimate of the cost of the services to be provided. Complete certainty as to the final cost is not required; however, estimates that leave the cost essentially opened-ended cannot be approved.
- b) Forward Pre-approval Form to Trial Court
The attorney for the child forwards the completed Expert Services and Representation Expense Pre-approval Form to the trial court for review.
- c) Trial Court Review
The trial court reviews the Expert Services and Representation Expense Pre-approval Form and transmits it to the Office of Attorneys for Children upon confirming that:
- i. The expense is attributable to the representation of the child; and
 - ii. The total cost has been allocated appropriately among the child and the other participants in the proceeding.
- d) Review by the Office of Attorneys for Children
The Office of Attorneys for Children reviews the Pre-approval Form and following approval, returns the form to the attorney.
- e) Expedited Pre-approval
When expert services are required immediately, the pre-approval process can be initiated with a telephone call or e-mail to the Office of Attorneys for Children. The expert can then begin to provide services while the Expert Services and Representation Expense Pre-approval Form is completed and processed.
4. Confirm Agreement with Expert
The attorney confirms the agreement with the expert and authorizes the expert to perform the services.

C. Paying the Expert

The attorney for the child should facilitate the coordination of compensation of the expert, help assure timely payment and continued availability of the expert. The attorney assists the expert in completing the billing documents and negotiating the payment process. While the attorney may bill for consultation with the expert regarding the service they are providing and trial preparation and testimony, the preparation of the expert voucher itself is not billable.

1. Attorney for the Child provides the expert with a voucher, which can be either the Claim for Payment (Figure 5) or JC2020 (Figure 6), obtainable from any Family Court and/or the *Administrative Handbook* available on the web page of the Office of Attorneys for Children. If the expense is over \$1,000, the attorney will have received the completed Expert Services and Representation Expense Pre-approval Form from the Office of Attorneys for Children; see B (3) (d) above.

2. **Expert Completes and Submits Voucher**
The expert completes the voucher, either the Claim for Payment or JC2020, and attaches the completed Pre-approval Form, if necessary, and a customary billing statement detailing all services provided, as set forth below, and forwards these documents to the trial court judge presiding in the proceeding.
 - a) **Customary Billing Statement**
The expert prepares his or her customary billing statement for all services provided and submits with the Claim for Payment or JC2020. The billing statement must include an entry for each day on which services were rendered, including: the date; the time expended; and a brief summary of the services, including the name of the individual to whom the services were rendered.
3. **Review by Trial Judge**
The trial judge reviews the expert's voucher and attachments to confirm that the cost is properly chargeable to the Office of Attorneys for Children, and upon approval, forwards it to the Office of Attorneys for Children for review and payment.

D. Compensation Guidelines

The Chief Administrator of the Courts has adopted the following hourly rates as guidelines for payment of non-lawyer professionals under Judiciary Law § 35 and County Law § 722-c:

- | | | |
|----|-------------------------|--------|
| 1. | Psychiatrist/Physician | \$ 250 |
| 2. | Certified Psychologist | \$ 150 |
| 3. | Certified Social Worker | \$ 75 |
| 4. | Licensed Investigator | \$ 55 |

Although these rates are guidelines rather than absolute ceilings, they do reflect the likely level of payment in the absence of unusual circumstances justifying greater compensation.

OBTAINING TRIAL TRANSCRIPTS

An attorney for the child may obtain transcripts for use in representing a client either at trial or on appeal by using the New York State Minute Order Form. The stenographer or transcriber provides the transcript directly to the attorney, who incurs no out-of-pocket expense because transcript costs are paid by the Office of Attorneys for Children. A motion for poor person relief is not required.

Prior to incurring the expense of a trial transcript, the attorney for the child, in consultation with the person or service providing the transcript, should determine the approximate cost of the transcript. **If the cost is expected to exceed \$500, pre-approval must be requested from the Office of Attorneys for Children (see p. 27 and 33),** unless the appellant is the child client in which case no permission is required. Additionally, where appropriate, the attorney for the child should explore whether other parties are seeking transcripts, and, if appropriate, consider sharing the cost of the trial transcripts.

Transcript charges from a court reporter and transcription charges from a transcription service will be reimbursed at the statutory rate of \$2.50 per page, plus \$1.00 for a copy, as set forth in the Rules of the Chief Administrator §108.2. The Office of Attorneys for Children is not authorized to pay for an expedited rate.

A child's attorney may obtain a Minute Order Form (Figure 8) from the Office of Attorneys for Children, the office's website, or the Family Court Clerk's Office, and then take the following steps:

1. The attorney completes the top portion of the Minute Order Form and presents the form to Family Court for the judge's endorsement;
2. Following the judge's action, Family Court retains a copy of the form and returns the remaining copies to the attorney for transmittal to the stenographer/transcriber;
3. Upon receiving the form with the judge's endorsement, the stenographer/transcriber prepares two certified copies of the transcript. One copy is to be filed with the Family Court Clerk, and the second copy is delivered to the attorney;
4. When the transcript is delivered, the attorney endorses the appropriate portion of the form;
5. The stenographer/transcriber retains a copy of the form and forwards the remaining copies, together with a completed SFS Claim Form (Figure 5), to the Office of Attorneys for Children for review and payment. Vouchers are available on the Office of Attorneys for Children web page link to Administrative Forms at http://www.nycourts.gov/ad3/OAC/SFS_Claim_for_Payment.pdf.

Questions about this procedure should be directed to Maureen Reilly at (518) 471-4829.

SUMMARY OF REIMBURSABLE EXPENSES OF REPRESENTATION

(cites refer to sections of Compensation and Reimbursement Policies and Procedures, p. 24-35)

Voucher Preparation; Pre-Approval Preparation; Expert Voucher Preparation	Not reimbursable.	II. A. 7.
Travel Time	Reimbursable for <i>driving</i> over 5 miles as reflected by shortest distance on MapQuest. Additional time for weather, construction, detour or other delays not billable. Time spent getting directions is not billable.	II B. 2.
Westlaw/Lexis	Expense not reimbursable but time spent researching is billable.	II. B. 1. c.
Fax and E-mail	Time spent to fax and print E-mail not reimbursable.	II. B. 1. c
Mileage	Reimbursable at the applicable rate (automatically calculated by the e-voucher system) as reflected by shortest distance on Mapquest.	II. B. 2.b.
Tolls	Reimbursable with receipt.	II. B. 2.h.
Parking	Reimbursable up to \$5 w/o receipt.	II. B. 2. i
Transcripts	From Court Reporter reimbursable at \$2.50 per page plus \$1.00 for each copy [Rules of the Chief Administrator §108.2(b)(1)(i)]. No expedited rate paid.	II. B. 3.
	From Transcription Service reimbursable at \$2.50 per page for original and \$1 for copy - use Minute Order Form (attached as Figure 8); No expedited rate paid.	II. B. 3.
Photocopying	Reimbursable at \$.15 per page - time spent copying is considered office overhead and is not reimbursable.	II. B. 4. a.
Long-Distance Phone Calls	Reimbursable; need receipt over \$15 - local calls not reimbursable.	II. B. 4. c.
Postage	Reimbursable; need receipt over \$15 - stationery not reimbursable. Time spent going to the post office is not billable.	II. B. 4.c. II. B. 2.f.
Experts e.g., psychiatrist, psychologist, social worker, private investigation	Reimbursable; for services to child only; documentation required.	V.
* NB - ANY Expense > \$1000 including transcripts over \$500	Pre-approval of Family Ct. and App. Div. required.	II. B. 5.
Other reimbursable expenses:	Interpreters; Statutory Witness fees; Service of process; EBTs Investigation; Representation in collateral matters.	

TRAINING AND EDUCATION OF ATTORNEYS FOR CHILDREN

I. Introduction

To help assure high quality representation of children, the rules of the Appellate Division, Third Department, require that attorneys for children receive introductory training and continuing legal education to remain eligible for assignments; see page 11-15. The Office of Attorneys for Children conducts a series of seminars each year to assist attorneys in meeting these requirements. Announcements of seminars are sent directly to attorneys for children via email and are posted on the program website at nycourts.gov/ad3/oac. All seminars, including reference materials, are provided at no cost to attorneys for children.

The Appellate Division, Third Judicial Department, Office of Attorneys for Children has been approved by the New York State Continuing Legal Education Board as an accredited provider of continuing legal education courses and programs, and online streaming of archived programs. This accredited provider status applies to all programs and recordings of programs given by the Office of Attorneys for Children since August 1, 1997.

Seminars conducted by the Office of Attorneys for Children may be credited toward compliance with the state's continuing legal education requirements, as well as with the Appellate Division's rules on training and education of attorneys for children, as set forth in section II herein.

II. Components of Training and Education Curriculum

A. Introductory Training

1. Prior to initial panel designation, attorneys must complete the required introductory training for attorneys for children conducted by the Appellate Division within one year of submission of the application.

A. Continuing Legal Education of Experienced Attorneys for Children

1. To be eligible for continued designation as a panel member when county panels are recertified each year, an attorney must have received six hours of continuing legal education (**CLE**) related to the representation of children within the previous two years.
2. To enable attorneys for children to meet this requirement, the Office of Attorneys for Children presents numerous CLE opportunities each year on a multitude of topics relative to the representation of children, including substantive law topics, evidence and trial skills. For example, previous CLE programs have dealt with topics such as custody and visitation, mental health, advanced juvenile delinquency practice, forensics, permanency planning, and sexual abuse. Although designed primarily for experienced practitioners, attorneys for children of all experience levels are invited.

III. Establishing Compliance

A. Online

In addition to attendance at live programs, the requirement for continuing legal education of experienced attorneys for children may be fulfilled by viewing programs on the office's webpage at <http://www.nycourts.gov/ad3/OAC/cle.html>. Please note, however, that the rules applicable to introductory training require actual attendance at the introductory training conducted by the Appellate Division, Office of Attorneys for Children, when feasible.

B. Certification

Fulfillment of the continuing legal education requirements, through either attendance at one of the component programs listed above, or online programs, is established by filing a Certification of Continuing Legal Education with the Office of Attorneys for Children (Figure 7). As part of the annual redesignation of county panels, panel members are asked to submit the certification form when their compliance with Appellate Division rules on continuing education of attorneys for children has not been documented otherwise.

IV. Waiver

A. Introductory Training

The Appellate Division rules provide that the introductory training requirement may not be waived. However, upon written request from an attorney with sufficient experience, as endorsed by a Family Court judge, the Appellate Division may defer the introductory training requirement for one year following designation to a county panel of attorneys for children.

B. Continuing Legal Education

The Appellate Division rules provide that, for good cause and upon the written recommendation of a Family Court judge, the Director of the Office of Attorneys for Children may waive the continuing legal education requirements. However, upon consultation with the Appellate Division's Advisory Committee on Attorneys for Children, it has been determined that waivers of the continuing education requirement are to be reserved for situations where illness, family emergency, or some comparable circumstance prevents an attorney from obtaining the required training.

V. Litigation Support

The Litigation Support Service provides case consultation and legal research on such matters as novel or complex questions of law, litigation planning and strategy, use of experts, investigations and trial tactics. Through the Litigation Support Service, attorneys for children are afforded an opportunity to consult with legal staff to devise innovative solutions of a full range of children's law problems. The Litigation Support Service is offered, without charge, to attorneys for children and can be contacted by calling the Office of Attorneys for Children at (518) 471-4825 or via email at ad3oac@nycourts.gov. **Please note** that the information conveyed during litigation support consultation is not in any way intended to be, nor should it be cited in any way, as authoritative. Rather, its purpose is to provide panel members with suggested alternative ideas, possible arguments and approaches, and not as the recommendation, advice or authority of the Appellate Division or Office of Attorneys for Children and must not be cited as such.

VI. Web Page

The Office of Attorneys for Children web page is located at www.nycourts.gov/ad3/oac and provides attorneys for children with access to a wide variety of resources and useful information about program operations. You will find the entirety of this handbook on the web page, including the forms contained in the attachments, such as the panel application, vouchers, and certification of continuing legal education. You will also find the New York State Bar Association representation standards, court rules, frequently asked questions, seminar schedules together with agendas, the most recent decisions of the Appellate Division, Third Department on children's law matters, updated as decisions are issued, and News Alerts regarding the program.

ATTACHMENTS

**The following forms are for illustration purposes only.
To access the current forms for use, please to this link:**
<http://www.nycourts.gov/ad3/Forms.html>

SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT
OFFICE OF ATTORNEYS FOR CHILDREN
APPLICATION FOR COUNTY PANEL OF ATTORNEYS FOR CHILDREN

	_____ County	
Name of Applicant:	_____	
Firm Name:	_____	
Address:	_____	

Phone:	_____	Fax: _____
Email Address:	_____	
Social Security Number	_____	
NY Bar Admission Date	_____	Attorney Registration # _____
Department	_____	

1. I am currently registered and in good standing with the Office of Court Administration as required by section 468-a of the Judiciary Law (having paid all biennial fees as required).

Yes ____ No ____

Attorney Registration # _____

2. I have an office and/or residence in panel county.

Yes ____ No ____

3. I have attended "Introduction to Effective Representation of Children".

Yes ____ No ____

Date _____

4. Are you employed full time with any governmental agency?

Yes ____ No ____

If yes, please attach the express written permission from employer, Family Court and the Office of Attorneys for Children.

FIGURE 1

5. Are you employed part time as District Attorney, ADA, County Attorney, Municipal Corporation counsel, Public Defender (or Conflict Defender, and the like) judge or justice of a city, town or village court, or law clerk to a judge or justice? Yes ____ No ____
If yes, please indicate position and county. Position _____
County _____
6. Are you a member of any assigned counsel (18B) panel? Yes ____ No ____
If yes, please indicate which county and County _____
Family and/or Criminal panel Family _____ Criminal _____
7. Have you ever:
- a. Been charged with or convicted of any crime? Yes ____ No ____
If yes, please state particulars and indicate the status thereof.
- b. Been sanctioned or held in contempt by any court? Yes ____ No ____
If yes, please state particulars.
- c. Had an order of protection issued against you? Yes ____ No ____
If yes, please state particulars.
- d. Been notified that you are the subject as a parent or person responsible for the care of a child of any indicated report to the Statewide Central Register of Child Abuse and Maltreatment? Yes ____ No ____
If yes, please state particulars and indicate the status thereof.
- e. Been suspended, removed or asked to resign from any assigned counsel plan or attorney for the child panel? Yes ____ No ____
If yes, please state particulars and indicate the status thereof.

FIGURE 1

- f. Been notified by any Attorney Grievance Committee that you are the subject of any public or private professional discipline, including letters of education and/or advisement? Yes ____ No ____

If yes, please state particulars and include any related documentation.

8. I have participated as counsel of record or as co-counsel with a mentor in:

- (1) A juvenile delinquency or person in need of supervision proceeding entitled

in _____ County Family Court;

- (2) A child abuse, child neglect, or termination of parental rights proceeding entitled

in _____ County Family Court;

- (3) A custody or visitation proceeding entitled

in _____ County Family Court;

and have participated in or observed two hearings in Family Court at which testimony was taken entitled

in _____ County Family Court; and

in _____ County Family Court.

9. I was previously a member of the panel of attorneys for children in _____ County from

_____ until _____

FIGURE 1

10. I have the following additional training and experience related to service as attorney for the child: _____

11. Please retype the attached Form Letter on applicant's own letterhead and send to the Attorney Grievance Committee of the jurisdiction in which applicant maintains principal law office.

12. **CONSENT TO RELEASE OF INFORMATION**
I consent to the release by the Appellate Division, Third Judicial Department, Attorney Grievance Committee, to the Director of the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, or his/her designee, solely for use by the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, in approving panel membership on the Attorney for the Child Panel, of information related to the making, investigation and determination of complaints against me handled by the Committee, including letters of private discipline, letters of education and/or with educational language, and letters of advisement, but excluding information related to complaints which were dismissed, closed or not investigated by the Committee.

13. I affirm under penalties of perjury that the foregoing information is true and correct.

Name (please print)

Signature

Date

FIGURE 1

Action by Family Court Judge

_____ I have determined that the applicant has met both the training and experience requirements for designation as an attorney for the child pursuant to § 835.2 (a) (1) (ii) and (iii) of the Rules of the Appellate Division, Third Department (22 NYCRR), and hereby approve the application and recommend that the applicant be added to the panel of attorneys for children for this county.

_____ I have determined that the applicant has met the experience requirement for designation as an attorney for the child pursuant to § 835.2 (a) (1) (iii) of the Rules of the Appellate Division, Third Department (22 NYCRR) and hereby approve the application and recommend that the applicant be added to the panel of attorneys for children for this county, subject to the requirement that the applicant attend the "Introduction to Effective Representation of Children" seminar within the first year of panel membership.

_____ I hereby defer action on the application, refer the applicant to _____ as mentor, and direct that a copy of this application be forwarded to the Appellate Division's Office of Attorneys for Children.

_____ I hereby deny the application for the following reasons:

Dated: _____ Signature _____

Approval of Deferred Application:

Having previously deferred action on the application, I have now determined that the applicant has met the training and experience requirements for designation as a panel member pursuant to § 835.2 (a) (1) of the Rules of the Appellate Division, Third Department (22 NYCRR) and hereby approve the application and recommend that the applicant be added to the panel of attorneys for children for this county.

Dated: _____ Signature: _____

FIGURE 1

**PLEASE RE-TYPE THE FOLLOWING ON APPLICANT'S OWN LETTERHEAD AND
SEND TO THE ATTORNEY GRIEVANCE COMMITTEE FOR THE JURISDICTION
IN WHICH APPLICANT MAINTAINS PRINCIPAL LAW OFFICE.**

(Date)

New York State Supreme Court
Appellate Division, Third Judicial Department
Attorney Grievance Committee
286 Washington Avenue Extension
Suite 200
Albany, NY 12203

(If your principal law office is located outside the Third Department, please send your request to the appropriate Attorney Grievance Committee.)

Re: (Applicant's Name)
(Attorney Registration No.)
(Date of Birth)
(Year Admitted & Department)

Dear Sir / Madam:

In order to complete the application process to be designated to the Attorneys for Children Panel in the Third Judicial Department, I am writing to request that the Appellate Division, Third Judicial Department, Attorney Grievance Committee deliver an attorney disciplinary history letter to the Director of the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, or his/her designee, whose offices are located at 286 Washington Avenue Extension, Suite 202, Albany, NY 12203, solely for the use by the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, in approving panel membership on the Attorney for the Child Panel.

In connection with this request, I consent to the release of information by the Attorney Grievance Committee of the Third Judicial Department related to the making, investigation and determination of complaints against me handled by the Committee, including letters of private discipline, letters of education and/or with educational language, and letters of advisement, but excluding information related to complaints which were dismissed, closed or not investigated by the Committee.

Sincerely,
(Signature of Applicant)

cc: Office of Attorney for Children

SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT
OFFICE OF ATTORNEYS FOR CHILDREN
APPLICATION FOR COUNTY ADVANCED JD PANEL OF ATTORNEYS FOR CHILDREN

_____ **County**

Name of Applicant: _____

Firm Name: _____

Address: _____

Phone: _____ **Fax:** _____

Email Address: _____

Social Security Number _____

NY Bar Admission Date _____ **Attorney Registration #** _____

Department _____

1. I am currently registered and in good standing with the Office of Court Administration as required by section 468-a of the Judiciary Law (having paid all biennial fees as required).
Yes ____ No ____
2. I have an office and/or residence in panel county. Yes ____ No ____
3. I have completed the Advanced JD training conducted by the Appellate Division.
Yes ____ No ____
Date _____
4. Are you employed full time with any governmental agency? Yes ____ No ____

If yes, please attach the express written permission from employer, Family Court and the Office of Attorneys for Children.

FIGURE 2

5. Are you employed part time as District Attorney, ADA, County Attorney, Municipal Corporation counsel, Public Defender (or Conflict Defender, and the like) judge or justice of a city, town or village court, or law clerk to a judge or justice? Yes ___ No ___
If yes, please indicate position and county. Position _____
County _____
6. Are you a member of any assigned counsel (18B) panel? Yes ___ No ___
If yes, please indicate which county County _____
and which panel. Family _____ Criminal _____
7. Have you ever been a member of a county panel of attorneys for children? Yes ___ No ___
If so, please indicate which county and provide dates of panel membership.
County _____
Dates of panel membership _____
8. Have you ever:
- a. Been charged with or convicted of any crime? Yes ___ No ___
If yes, please state particulars and indicate the status thereof.
- b. Been sanctioned or held in contempt by any court? Yes ___ No ___
If yes, please state particulars.
- c. Had an order of protection issued against you? Yes ___ No ___
If yes, please state particulars.
- d. Been notified that you are the subject as a parent or person responsible for the care of a child of any indicated report to the Statewide Central Register of Child Abuse and Maltreatment? Yes ___ No ___
If yes, please state particulars and indicate the status thereof.

FIGURE 2

- e. Been suspended, removed or asked to resign from any assigned counsel plan or attorney for the child panel? Yes ____ No ____

If yes, please state particulars and indicate the status thereof.

- f. Been notified by any Attorney Grievance Committee that you are the subject of any public or private professional discipline, including letters of education and/or advisement? Yes ____ No ____

If yes, please state particulars and include any related documentation.

9. I have the following substantial and relevant experience in the practice of criminal law to effectively represent children in felony cases:

10. Please retype the attached Form Letter on applicant's own letterhead and send to the Attorney Grievance Committee of the jurisdiction in which applicant maintains his or her principal law office.

11. **CONSENT TO RELEASE OF INFORMATION**

I consent to the release by the Appellate Division, Third Judicial Department, Attorney Grievance Committee, to the Director of the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, or his/her designee, solely for use by the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, in approving panel membership on the Advanced Juvenile Delinquency Panel of Attorneys for the Children, of information related to the making, investigation and determination of complaints against me handled by the Committee, including letters of private discipline, letters of education and/or with educational language and letters of advisement, but excluding information related to

complaints which were dismissed, closed or not investigated by the Committee.

FIGURE 2

12. I affirm under penalties of perjury that the foregoing information is true and correct.

Name (please print)

Signature

Date

Action by Family Court Judge

_____ I have determined that the applicant has met both the training and experience requirements for designation as an Advanced Juvenile Delinquency attorney for the child pursuant to § 835.2 (b) (3) (ii) and (iii) of the Rules of the Appellate Division, Third Department (22 NYCRR), and hereby approve the application and recommend that the applicant be added to the Advanced Juvenile Delinquency panel of attorneys for children for this county.

_____ I hereby deny the application for the following reasons:

Dated: _____ Signature: _____

FIGURE 2

PLEASE RE-TYPE THE FOLLOWING ON APPLICANT'S OWN LETTERHEAD AND SEND TO THE ATTORNEY GRIEVANCE COMMITTEE FOR THE JURISDICTION IN WHICH APPLICANT MAINTAINS PRINCIPAL LAW OFFICE.

(Date)

New York State Supreme Court
Appellate Division, Third Judicial Department
Attorney Grievance Committee
286 Washington Avenue Extension
Suite 200
Albany, NY 12203

(If your principal law office is located outside the Third Department, please send your request to the appropriate Attorney Grievance Committee.)

Re: (Applicant's Name)
(Attorney Registration No.)
(Date of Birth)
(Year Admitted & Department)

Dear Sir / Madam:

In order to complete the application process to be designated to the Attorneys for Children Panel in the Third Judicial Department, I am writing to request that the Appellate Division, Third Judicial Department, Attorney Grievance Committee deliver an attorney disciplinary history letter to the Director of the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, or his/her designee, whose offices are located at 286 Washington Avenue Extension, Suite 202, Albany, NY 12203, solely for the use by the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, in approving panel membership on the Attorney for the Child Panel.

In connection with this request, I consent to the release of information by the Attorney Grievance Committee of the Third Judicial Department related to the making, investigation and determination of complaints against me handled by the Committee, including letters of private discipline, letters of education and/or with educational language, and letters of advisement, but excluding information related to complaints which were dismissed, closed or not investigated by the Committee.

Sincerely,

(Signature of Applicant)

cc: Office of Attorneys for Children

FIGURE 2

SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT
OFFICE OF ATTORNEYS FOR CHILDREN
ANNUAL PANEL REDESIGNATION APPLICATION

In order to be eligible for panel redesignation, a current panel member must submit this application to the Office of Attorneys for Children on or before **October 1st each year.**

Name of Applicant: _____

Please list any and all Counties in which you seek Re-Designation:

Address: _____

Phone: _____

Fax: _____

Email Address: _____

1. I wish to be re-designated as an attorney for the child panel member. Yes _____ No _____

2. I am currently registered and in good standing with the Office of Court Administration as required by section 468-a of the Judiciary Law (having paid all biennial fees as required). Yes _____ No _____

Attorney Reg. # _____

3. Are you employed full time with any governmental agency? Yes _____ No _____

If yes, please attach express written permission from employer, Family Court and the Office of Attorneys for Children.

FIGURE 3

4. Are you employed part time as District Attorney, ADA, County Attorney, Municipal Corporation counsel, Public Defender, (or Conflict Defender, and the like), judge or justice of a city, town or village court, or law clerk to a judge or justice? Yes ____ No ____

If yes, please indicate position and county. Position _____
County _____

5. Are you a member of any assigned counsel (18B) panel? Yes ____ No ____

If yes, please indicate what county and County _____

Family and/or Criminal panel Family ____ Criminal ____

6. I have read and am in compliance with the Summary of Responsibilities of the Attorney for the Child (set forth below): Yes ____ No ____

SUMMARY OF RESPONSIBILITIES OF THE ATTORNEY FOR THE CHILD

While the activities of the attorney for the child will vary with the circumstances of each client and proceeding, in general those activities will include, but not be limited to, the following:

- (1) Commence representation of the child promptly upon being notified of the appointment;
- (2) Contact, interview and provide initial services to the child at the earliest practical opportunity, and prior to the first court appearance when feasible;
- (3) Consult with and advise the child regularly concerning the course of the proceeding, maintain contact with the child so as to be aware of and respond to the child's concerns and significant changes in the child's circumstances, and remain accessible to the child;
- (4) Conduct a full factual investigation and become familiar with all information and documents relevant to representation of the child. To that end, the lawyer for the child shall retain and consult with all experts necessary to assist in the representation of the child;
- (5) Evaluate the legal remedies and services available to the child and pursue appropriate strategies for achieving case objectives;
- (6) Appear at and participate actively in proceedings pertaining to the child;
- (7) Remain accessible to the child and other appropriate individuals and agencies to monitor implementation of the dispositional and permanency orders, and seek intervention of the court to assure compliance with those orders or otherwise protect the interests of the child, while those orders are in effect; and
- (8) Evaluate and pursue appellate remedies available to the child, including the expedited relief provided by statute, and participate actively in any appellate litigation pertaining to the child that is initiated by another party, unless the Appellate Division grants the application of the attorney for the child for appointment of a different attorney to represent the child on appeal.

FIGURE 3

7. I have read and am fully familiar with the Compensation and Reimbursement Policies and Procedures (set forth in the current Administrative Handbook). Yes ____ No ____
8. Do you keep contemporaneous time-keeping records of your work as attorney for the child? Yes ____ No ____
9. Since the last application that you filed with our office, have you:
- a. Been charged with or convicted of any crime? Yes ____ No ____
If yes, please state particulars and indicate the status thereof.
- b. Been sanctioned or held in contempt by any court? Yes ____ No ____
If yes, please state particulars.
- c. Had an order of protection issued against you? Yes ____ No ____
If yes, please state particulars.
- d. Been notified that you are the subject as a parent or person responsible for the care of a child of any indicated report to the State Central Register of Child Abuse and Maltreatment? Yes ____ No ____
If yes, please state particulars and indicate the status thereof.
- e. Been suspended, removed or asked to resign from any assigned counsel plan or attorney for the child panel? Yes ____ No ____
If yes, please state particulars and indicate the status thereof.

FIGURE 3

- f. Been notified by any Attorney Grievance Committee that you are the subject of any public or private professional discipline, including letters of education and/or advisement? Yes ____ No ____
If yes, please state particulars and include any related documentation.
10. Please retype the attached Form Letter on applicant's own letterhead and send to the Attorney Grievance Committee of the jurisdiction in which applicant maintains principal law office.
11. **CONSENT TO RELEASE OF INFORMATION**
I consent to the release by the Appellate Division, Third Judicial Department, Attorney Grievance Committee, to the Director of the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, or his/her designee, solely for use by the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, in approving panel membership on the Attorney for the Child Panel, of information related to the making, investigation and determination of complaints against me handled by the Committee, including letters of private discipline, letters of education and/or with educational language, and letters of advisement, but excluding information related to complaints which were dismissed, closed or not investigated by the Committee.
12. I affirm under penalties of perjury that foregoing information is true and correct.

Name (Please Print)

Signature

Date

FIGURE 3

ONLINE APPLICATION WILL BE AUTOMATICALLY SENT BY EMAIL TO:

SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT
OFFICE OF ATTORNEYS FOR CHILDREN
286 WASHINGTON AVENUE EXTENSION
SUITE 202
ALBANY, NY 12203

ad3oac@nycourts.gov

FIGURE 3

**PLEASE RE-TYPE THE FOLLOWING ON APPLICANT'S OWN LETTERHEAD AND
SEND TO THE ATTORNEY GRIEVANCE COMMITTEE FOR THE JURISDICTION IN
WHICH APPLICANT MAINTAINS A PRINCIPAL LAW OFFICE.**

(Date)

New York State Supreme Court
Appellate Division, Third Judicial Department
Attorney Grievance Committee
286 Washington Avenue Extension
Suite 200
Albany, NY 12203

(If your principal law office is located outside the Third Department, please send your request to the appropriate Attorney Grievance Committee.)

Re: (Applicant's Name)
(Attorney Registration No.)
(Date of Birth)
(Year Admitted & Department)

Dear Sir / Madam:

In order to complete the application process to be re-designated to the Attorneys for Children Panel in the Third Judicial Department, I am writing to request that the Appellate Division, Third Judicial Department, Attorney Grievance Committee deliver an attorney disciplinary history letter to the Director of the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, or his/her designee, whose offices are located at 286 Washington Avenue Extension, Suite 202, Albany, NY 12203, solely for the use by the Office of Attorneys for Children of the Appellate Division, Third Judicial Department, in re-designating panel membership on the Attorney for the Child Panel.

In connection with this request, I consent to the release of information by the Attorney Grievance Committee of the Third Judicial Department elated to the making, investigation and determination of complaints against me handled by the Committee, including letters of private discipline, letters of education and/or with educational language, and letters of advisement, but excluding information related to complaints which were dismissed, closed or not investigated by the Committee.

Sincerely,

(Signature of Applicant)

cc: Office of Attorney for Children

FIGURE 3

OFFICE OF ATTORNEYS FOR CHILDREN
SUPREME COURT, APPELLATE DIVISION
THIRD JUDICIAL DEPARTMENT
286 WASHINGTON AVENUE EXTENSION
SUITE 202
ALBANY, NY 12203
(Ph.) 518-471-4825 (Fax) 518-471-4757

EXPERT SERVICES AND REPRESENTATION EXPENSE
PRE-APPROVAL FORM

Date _____

Children's Attorney _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Fax _____

Client Surname _____ Proceeding Type _____

Service Provider _____

Address _____

City _____ State _____ Zip _____

Services to be Performed _____

Explain Need for Services _____

Hourly Rate _____ Total Maximum Cost _____

Allocation of Cost for Child's Share _____

Approved:

Supreme/Family/Surrogate's Court Judge

Director, Office of Attorneys for Children
Third Judicial Department

FIGURE 4

AC2355-6 (Effective 1/12)											
State of New York				CLAIM FOR PAYMENT							
Vendor Information											
Vendor Name						Vendor Identification Number					
Address						City		State		Zip Code	
						Invoice Number					
PURCHASE ORDER NO. AND DATE		DESCRIPTION OF GOODS/SERVICE				QUANTITY	UNIT	PRICE		AMOUNT	
VENDOR CERTIFICATION I certify that the above bill is just, true and correct; that no part thereof has been paid except as stated and that the balance is actually due and owing, and that none for which the date is exempt case excluded. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> _____ Vendor's Signature in Ink </div> <div style="width: 45%;"> _____ Title </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;"> _____ Date </div> <div style="width: 45%;"> _____ Name of Company </div> </div>								Total			
								Discount %			
								Net			
NYS Agency Information											
Vendor Identification Number				Vendor Location ID				Vendor Address Sequence			
Vendor ID		Business Unit Name			Bus. Unit		Internal Eligible (Y/N)		Contract ID		
Payment Date (MM) (DD) (YY)				Liability Date (MM) (DD) (YY)				Mechanism Rec'd Date (MM) (DD) (YY)			
Withholding Class		Withholding Amount		Handling Code		Pages Amount					
Invoice Number						Invoice Date					
PeopleSoft Format Charge Lines (If Applicable)											
Business Unit		Department		Program		Fund		Account			
Budget Reference		Project ID		Activity		Class		Operating Unit			
Product		Chartfield 1 - Accumulator		Chartfield 2 - Agency Use		Chartfield 3		Amount			
Legacy Format Charge Lines (If Applicable)											
Rependiture								Liquidation			
DATA		DATA CENTER		YR		TR		OBJECT		APPROPRIATION	
Liability Date				From Date		TO		Est/ledger		Optional	

FIGURE 5

STATE OF NEW YORK - UNIFIED COURT SYSTEM
VOUCHER FOR ASSIGNED COUNSEL, PHYSICIAN, PSYCHIATRIST, PSYCHOLOGIST, SOCIAL WORKER OR
INVESTIGATORS
JC 2020

Voucher ID:

PLEASE SEE INSTRUCTIONS FOR MORE INFORMATION AND REQUIRED DOCUMENTATION										
VENDOR INFORMATION										
1. Vendor Name:					2. Vendor Identification Number:					
3. Business Name:										
4. Address:										
City:			State:		Zip Code:		County:			
5. Docket/Index/File#:					6. Referral#:		7. Date:			
8. Type of service rendered: <input type="checkbox"/> Legal <input type="checkbox"/> Physician <input type="checkbox"/> Psychiatrist <input type="checkbox"/> Psychologist <input type="checkbox"/> Social Worker <input type="checkbox"/> Investigators <input type="checkbox"/> Other										
9. For services rendered by counsel, mental health professionals, physicians or investigators pursuant to section 95 of the Judiciary Law in the Supreme/ Surrogate/Family/County Court of _____ County during the period from ____/____/____ to ____/____/____ for _____ Docket/Index/File number: _____					10		Amount			
					Total Hours		Dollars		Cents	
					Expenses:					
					TOTAL FEE:					
VENDOR CERTIFICATION										
11. I hereby certify that the above statement of services provided is true and correct, and that no other claim for payment has been made for the time stated therein and that no part thereof has been paid, except as stated therein and that the balance stated is due and owing and that taxes from which the State is exempt are excluded therefrom.										
SIGNATURE					DATE					
FOR USE OF COURT JUDGE/JUSTICE										
I hereby certify that in accordance with the above statement of services, the total fee awarded for such services is fair and just and is set forth above.										
SIGNATURE					DATE					
FOR UCS ADMINISTRATIVE PURPOSES ONLY										
I hereby certify that this voucher is correct and just, and payment is hereby approved.										
SIGNATURE					DATE					
FOR UCS BUDGET PROCESSING OFFICE ONLY										
Business Unit	Amount	Dept.	Program	Fund	Account	Bud. Ref.	Oper Unit	Grant/Ref. #		
Char/Field 2	Budget Date:				Liability Date:		Merch./Inv. Rec'd Date:			

JC 2020 (Rev. 4/13)

FIGURE 6

**Instructions for Preparing JC 2020 Vouchers for Assigned Counsel, Physician,
Psychologist, Social Worker or Investigators**

Voucher ID: -Agency Internal Use Only

- 1. Vendor Name:** For individuals, enter the name of the vendor as it appears in SFS.
- 2. Vendor Identification Number:** Enter the ten digit number provided by the Office of the State Comptroller to conduct business in New York State. If payment should be made to your firm, please enter the firm's vendor ID#. (If you do not have a Vendor ID, please contact the appropriate Appellate Division).
- 3. Business Name:** Enter the Legal Business name as it appears in SFS.
- 4. Address:** Enter the physical address as it appears in SFS. For change of address, please go to the vendor portal at <https://www.sfs.ny.gov> .
- 5. Docket/Index/File#:** Enter the appropriate court docket, index or file number(s) associated with the case.
- 6. Ref/Inv#:** Enter last name of client for whom services were performed or invoice number.
- 7. Date:** Enter the date the voucher is submitted.
- 8. Type of service rendered:** Indicate type of service rendered as appropriate.
- 9.** Indicate the county, the period of service rendered, the name of the client for whom the services were performed and the appropriate court docket, index or file number(s).
- 10. Amount:** Enter total hours and amount in dollars and cents. Enter the expenses in dollars and cents. Enter the total fee being charged to the State (Apportionment, if applicable) in the "Total Fee" box in dollars and cents.
- 11. Vendor Certification:** The vendor authorized to claim fees must sign and date the Certification.

Attached Required Documentation:

The following documentation must be submitted with the voucher for payment:

- a.** A copy of the Court Order authorizing payment
- b.** Affidavit in Support of voucher for compensation in excess of Statutory Maximum, if appropriate.
- c.** Itemized billing statement including date of service, to whom the services were rendered, type of service and time spent on each date of service.

FIGURE 6

OFFICE OF ATTORNEYS FOR CHILDREN
APPELLATE DIVISION, THIRD JUDICIAL DEPARTMENT
286 WASHINGTON AVENUE EXTENSION, SUITE 202
ALBANY, NEW YORK 12203
ad3oac@nycourts.gov

***CERTIFICATION OF CONTINUING LEGAL EDUCATION
AND WEBINAR EVALUATION FORM***

In order to receive continuing legal education credit for viewing a webinar, a previously recorded live seminar, or a Know the Law video sponsored by this office, please complete this form in its entirety, and forward the completed form to our office, via email or regular mail, at one of the addresses set forth above.

Part One: Certification of Continuing Legal Education

Please provide the following information below.

Name: _____

Address: _____

Telephone: _____

County of Panel Membership: _____

Title of Webinar/Seminar/Video viewed: _____

Date of Webinar/Seminar/Video viewed: _____

Verification Code(s) that appeared during Webinar/Seminar/Video:

I certify that I have viewed the continuing legal education program indicated above in its entirety, and I ask that I be awarded the applicable CLE credit for viewing this program, and that this be credited towards compliance with the Rules of the New York State MCLE Board and the Appellate Division, Third Judicial Department, concerning education and training of attorneys for children.

Sign and Date _____

**THIS FORM IS NOT TO BE
USED TO ORDER TRANSCRIPTS
UNDER JUDICIARY LAW 299**

NEW YORK STATE ATTORNEY FOR CHILD MINUTE ORDER FORM AND RECEIPTS

MATTER OF _____

I DATE MINUTES ORDERED, ETC.	DATE OF ORDER: _____ DATE REQUIRED: _____ COURT REPORTER: _____ <div style="text-align: right; margin-right: 50px;">(Print)</div> DOCKET NO.: _____ COUNTY: _____ PART: _____ JUDGE: _____ DATE(S) OF PROCEEDING: _____ TOTAL COPIES: _____ TYPE OF ORDER: (Check One) <input type="checkbox"/> REGULAR <input type="checkbox"/> EXPEDITED
II COURT'S ORDER AND AUTHORIZATION FOR MINUTES	IT IS HEREBY ORDERED, that the above-named reporter(s), is (are), to furnish minutes in the above action to THE ATTORNEY FOR CHILD. DATE: _____ HON: _____
III ATTORNEY FOR CHILD RECEIPT FOR MINUTES	This is to acknowledge receipt of a copy of minutes in the above-entitled action, consisting of _____ pages. <input type="checkbox"/> REGULAR <input type="checkbox"/> EXPEDITED DATE: _____ ATTORNEY FOR CHILD: _____
IV AUTHORIZATION FOR BILLING	PAYMENT AUTHORIZED FOR: _____ pages. at \$ _____ per page: \$ _____ <div style="text-align: right; margin-right: 100px;">Total</div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%; text-align: center;"> _____ Signature - Attorney for Child Director </div> <div style="width: 35%; text-align: center;"> _____ Date </div> </div>

FIGURE 8