

OFFICE OF THE CHILD'S REPRESENTATIVE



STRATEGIC PLAN
November 1, 2011

LINDA WEINERMAN, EXECUTIVE DIRECTOR

I. AGENCY OVERVIEW

A. MISSION STATEMENT

The mission of the OCR is to provide competent and effective legal representation to Colorado's children involved in the court system because they have been abused and neglected, impacted by high conflict parenting time disputes, or charged with delinquent acts and without a parent able to provide relevant information to the court or protect their best interests during the proceedings. As a state agency, the OCR is accountable to the State of Colorado to achieve this mission in the most cost-efficient manner without compromising the integrity of services or the safety and well-being of children. The OCR is committed to ensuring that children represented by guardians *ad litem* (GALs), Colorado's most vulnerable and marginalized population in the courts, receive the best legal services available to protect and promote their safety and well-being throughout all aspects of a case.

B. GUARDIAN AD LITEM SERVICES PROVIDED BY THE OCR

Court-appointed attorney GAL service is a mandated service that must be provided to children; as such, these services are not discretionary. Section 19-3-203, C.R.S. states the court shall appoint a GAL in every dependency and neglect (D&N) case; §19-1-111, C.R.S. requires the court to appoint a GAL in delinquency (JD) matters and other case types when it is necessary to serve the child's best interest; and §14-10-116, C.R.S. requires the state to bear all costs in a parental responsibility case of a Child's Legal Representative (CLR) or Child and Family Investigator (CFI) appointment if the parties are indigent. All services provided by the OCR are attorney services; the Judicial Department oversees non-attorney and private pay attorney CFI appointments.

OCR Mandates: The statute creating the OCR sets forth its comprehensive mandate to ensure enhanced best interests legal representation of children who come into contact with Colorado's court system, as well as a list of specific mandates necessary to the accomplishment of this goal. The OCR's statutory mandates include:

- Improve quality of best interest attorney services and maintain consistency of best interest representation statewide.
- Provide accessible training statewide for attorneys.
- Provide statewide training to judges and magistrates.
- Establish minimum training requirements for all attorneys representing the best interests of children.
- Establish minimum practice standards for all attorneys representing the best interests of children.
- Provide oversight of the practice of GALs to ensure compliance with the established minimum standards.
- Create local oversight entities in each of Colorado's 22 judicial districts to oversee the provision of services and to report to the OCR director concerning the practice of GALs.
- Establish fair and realistic compensation for state-appointed GALs.

- Work with Court-Appointed Special Advocates (CASA) to develop local CASAs in each of the 64 counties statewide.
- Enhance funding resources for CASA.
- Work cooperatively with CASA to provide statewide CASA training.
- Serve as a resource for attorneys.
- Develop measurement instruments to assess and document the effectiveness of various models of representation.

See § 13-91-101 *et seq.*, C.R.S. The Office's paramount mandate is to provide competent attorney services through a comprehensive and properly funded program.

II. THE OCR'S FIVE-YEAR STRATEGIC PLAN

A. VISION

All Colorado children in need of a GAL will receive comprehensive legal advocacy from an attorney who is an expert in pediatric law and who will diligently, zealously, and effectively represent their best interests and promote their safety and well-being throughout all aspects of their case. These services will be provided in a cost-effective manner.

B. EFFECTIVE GAL SERVICES

GOAL 1: The OCR will provide effective GAL services.					
KEY MEASURES	FY09 Approx*	FY10 Approx*	FY11 Approx.*	FY12 Appr.	FY13 Request
1.A. GALs will visit all children in their placement within 30 days of each appointment and each change in placement.	92%	92%	94%		
1.B. GALs will perform a comprehensive and independent initial and ongoing investigation in every case in compliance with applicable Chief Justice Directives.	80%	80%	85%		
1.C. GALs will attend all court hearings and, when necessary, will obtain substitute counsel in compliance with applicable Chief Justice Directives.	99%	99%	99%		
1.D. GALs will provide meaningful recommendations and effective advocacy in Court.	92%	92%	95%		

**The OCR is currently only able to approximate percentages measuring attainment of the goals on this chart, as it currently lacks system-wide electronic data. The approximations are based on resolution of complaints, attorney evaluations, and feedback provided during judicial districts. With the adoption of the KidsVoice data system during the current fiscal year, see page 11, the OCR will be able to provide more comprehensive and accurate data in future fiscal years.*

Key OCR Activities to Meet this Goal: The OCR's mandate is to ensure quality GAL representation for Colorado's children. Identified problems with GAL representation and the

unique vulnerability of children motivated the OCR's creation. The OCR has worked to improve GAL representation through its selection process, oversight, compensation, training, and litigation support. Pursuant to its statutory mandate, the OCR also made recommendations to the Chief Justice of the Colorado Supreme Court on standards for GALs; these are embodied in Chief Justice Directive (CJD) 04-06. The measures set forth above represent the core standards of this CJD.

In the upcoming years, the OCR will continue to provide oversight, compensation, training, and litigation support and, as necessary, recommend enhancements to the practice standards established by the Chief Justice.

C. EFFICIENCIES IN ATTORNEY SERVICES

GOAL 2: The OCR will provide effective attorney services in the most cost-efficient manner possible.					
KEY MEASURES	FY09 Actual	FY10 Actual	FY11 Actual	FY12 Appr.	FY13 Request
2.A. The number of hours billed by private contractors will be justified by reasonable case practice norms.	100%	100%	100%		
2.B. GALs will achieve efficiencies in their practice through the use of the OCR's listserv.	100%	100%	100%		
2.C. GALs will achieve efficiencies in their practice through the use of OCR's motions/forms bank.	75%*	75%*	75%*		
2.D. The OCR will determine the efficacy and efficiencies of various models of representation through ongoing evaluation of the El Paso GAL Office, the establishment and evaluation of contract multidisciplinary staff office models, and other pilot programs.	NA	NA	NA		

**To date, the OCR has informally assessed the use of its motions bank. The OCR will begin to formally evaluate the use of its motions bank in FY12 through electronic tracking and/or attorney feedback.*

Key OCR Activities to Meet this Goal: The OCR works to ensure reasonable billing through the establishment of presumptive maximum fees for each case type, ongoing comparison of attorneys' bills statewide and by jurisdiction/case type, and periodic audits of attorneys' billing activity.

The OCR supports efficient use of attorney time through its maintenance of a motions bank and listserv, and it also publishes periodic newsletters summarizing recent cases and other developments in juvenile law. These activities promote efficiencies in attorney practice, allowing attorneys to draw on the experience and efforts of other attorneys instead of recreating what has already been done. OCR attorney staff also serve as a resource to OCR attorneys,

assisting them with questions on individual cases and linking them to other attorneys with expertise in particular subject areas.

The OCR's multidisciplinary staff office pilot program in Arapahoe and Denver Counties is a new endeavor allowing the OCR to explore another method of providing efficiencies in GAL practice.

D. TRAINING

GOAL 3: The OCR will ensure GALs have a core knowledge base of the legal framework, social science research, and evidence-based practices impacting the practice of pediatric law.					
KEY MEASURES	FY09 Actual	FY10 Actual	FY11 Actual	FY12 Appr.	FY13 Request
3.A. GALs will comply with the OCR's minimum training requirements for GALs.	95%	100%	100%		
3.B. GALs will have access to at least two OCR-sponsored statewide conferences each fiscal year.	100% (2)	100% (2)	150% (3)		
3.C. GALs will receive ongoing and accessible training through OCR's brown bag webinars and other electronic training materials.	100% (6)	100% (9)	100% (8)		
3.D. GALs will be able to obtain input on case strategy, substantive issues, and appropriateness of placements/services from other GALs on a statewide basis through the use of the OCR's listserv.	100%	100%	100%		
3.E. GALs will receive updates on changes to federal and state law and regulations, social science research, and best practices impacting children's permanency and well-being.	100%	100%	100%		
3.F. GALs will enjoy access to meaningful and up-to-date legal, social science, and community resources through the OCR's online resource center.	100%	100%	100%		
3.G. Judicial officers and other system stakeholders will have access to the OCR's live trainings and electronic training materials.	100%	100%	100%		

Key OCR Activities to Meet this Goal: Another important component of improving the quality of legal representation for children is the provision of ongoing, meaningful training tailored to the specialized needs of attorneys representing children. A child-sensitive legal system depends upon a bench and bar of considerable sophistication and competence, in not only the law, but

also on issues unique to children. When representing children's best interests, lawyers must, in addition to their legal skills, be able to draw upon interdisciplinary knowledge from such pertinent fields as psychology, sociology, social work, and medicine. Federal law recognizes this by requiring states receiving child welfare funds to certify that each court-appointed GAL has received training appropriate to the role. Children are best served by the legal child welfare system when judges also understand the social, developmental, and psychological implications of events that take place in a child's life, including the decisions that the judge makes on their behalf. Pediatric law remains a developing area of expertise, and new information about the complex needs of children and families emerges every year. Appropriately, the OCR is mandated to provide ongoing, accessible, and meaningful training to attorneys and judges.

The OCR has met this mandate through a comprehensive training program. Each year, the OCR has sponsored at least two statewide conferences for GALs and other stakeholders; provided ongoing training through brown bag sessions, jurisdiction-specific trainings, and topic-specific DVDs or webinars; and collaborated with other entities to maximize cross-systems training opportunities. The OCR is increasingly using electronic means, including webinars and on-line dissemination of training materials, to maximize accessibility of its training. Additionally, the OCR has already held an intensive advocacy skills training this current fiscal year. This two-day program has provided refresher sessions on litigation skills to a select group of attorneys and allowed them to practice those skills in the context of a realistic but fictional D&N case scenario.

In Fiscal Year 2013, the OCR intends to continue to provide at least two annual statewide conferences, ongoing webinars, additional advocacy skills trainings, and access to other training opportunities for GALs, judicial officers, and other stakeholders. The OCR will continue to issue periodic newsletters, maintain and expand its motions bank, and explore other means of maximizing the timeliness, relevance, and quantity of information and practice materials provided to GALs.

E. MULTIDISCIPLINARY SERVICES/CORNERSTONE ADVOCACY PRINCIPLES

GOAL 4: The OCR will promote multidisciplinary services and Cornerstone Advocacy principles.					
KEY MEASURES	FY09 Approx*	FY10 Approx*	FY11 Approx*	FY12 Appr.	FY13 Request
4.A. Multidisciplinary staff office models will be instituted and evaluated in two jurisdictions.	NA	NA	100%		
4.B. GALs will promote youth voice through inclusion of youth in staffings, court hearings, and other appropriate venues.	50%	70%	75%		
4.C. GALs will promote youth voice by ensuring that their assessment of a child's best interests includes consideration of the child's wishes and the rationale for those wishes.	50%	60%	65%		

4.D. GALs will frontload investigation and advocacy, providing intensive advocacy targeted towards family stabilization/ maintaining connections.	70%	75%	78%		
---	-----	-----	-----	--	--

**The OCR is currently only able to approximate percentages measuring attainment of the goals on this chart, as it currently lacks system-wide electronic data. The approximations are based on resolution of complaints, attorney evaluations, and feedback provided during judicial districts. With the adoption of the KidsVoice data system during the current fiscal year, see pages 11, the OCR will be able to provide more comprehensive and accurate data in future fiscal years.*

Key OCR Activities to Meet this Goal: The OCR’s multidisciplinary staff office pilot program is detailed in Section I.F. In summary, through an RFP process, the OCR has contracted with three law offices to provide multidisciplinary GAL services in Denver and Arapahoe Counties. Subject to caseload limits and conflict of interest prohibitions on handling specific cases, the Arapahoe County office will provide representation on cases in that county, while the two offices in Denver will be responsible for providing representation in specific courtrooms. Social work staff will enhance the quality of representation in a cost-effective manner, and the OCR’s contracts with the offices require more frequent contact with children than the standards set by Chief Justice Directive. The OCR will provide an ongoing assessment of the benefits and effectiveness of this model of representation.

The Cornerstone Advocacy model employed by New York’s Center for Family Representation has received much national attention for the impressive outcomes it has demonstrated with families involved in the child welfare system, including increased family placement, a shorter length of time in out-of-home care, and lower reentry rates. This model of representation, as adapted by the OCR for GAL practice, mandates intensive advocacy within the first 60 days of a case focused on four cornerstones: appropriate placement, meaningful and frequent visitation, creative and accessible services, and education/life skills. This model requires “small adjustments” in attorney practice, such as taking time at the first visit/court appearance to talk to children and parents about potential visitation “hosts” (appropriate individuals outside of the department of social services who may be able to safely supervise more frequent visitation than department of social services staff can supervise), and requires attorneys to be well-versed in department regulations in addition to the statutes governing the proceedings. The OCR’s multidisciplinary staff office models have engaged in this approach from their outset, and the OCR will continue to spread this practice throughout Colorado through trainings and other supports. The OCR’s supportive approach to the implementation of this model, which will include the provision of practical handbooks, sample motions and letters, and ongoing training and updates, will allow the OCR to implement this effective advocacy model in a cost-neutral manner.

Additionally, in Fiscal Year 2011, the OCR secured grant funding to publish a comprehensive advocacy guide for attorneys in D&N proceedings. This guide, which is anticipated to be published and disseminated by September 2012, will provide a detailed overview of the law (statutes, cases, and regulations) and targeted practice tips pertinent to each hearing in D&N proceedings, as well as approximately 25 “Fact Sheets” containing an overview of the law and practice tips pertinent to common issues in D&N proceedings (e.g., evidentiary issues unique to D&N proceedings, family finding, education, successful transition from foster care to

adulthood). Physical copies will be made available to GALs, parents' attorneys, county attorneys, and judicial officers handling D&N proceedings, and it will also be made available on-line.

Consistent with its statutory mandate to recommend minimum practice standards to the Chief Justice of the Colorado Supreme Court, the OCR will explore recommending additional standards to promote youth voice in D&N and other proceedings.

F. COMPENSATION

GOAL 5: Establish fair and realistic compensation for state-appointed GALs.					
KEY MEASURES	FY09 Actual	FY10 Actual	FY11 Actual	FY12 Appr.	FY13 Request
5.A. GALs will be paid on a fee-for-service basis to allow sufficient time for effective investigation, preparation, and advocacy (exception: multidisciplinary GAL offices).	100%	100%	100%		
5.B. GALs will receive a rate of compensation commensurate to other public sector attorneys.	\$65/hr	\$65/hr	\$65/hr		
5.C. GALs will have access to experts, litigation support, and other resources necessary for effective and independent case preparation and advocacy.	100%	100%	100%		

Key OCR Activities to Meet this Goal: It is the statutory mandate of the OCR to “establish fair and realistic rates of compensation” in order to enhance the legal representation of children. §13-91-105, CRS. Fair and realistic compensation is critical to maintain a pool of dedicated and skilled GALs and to allow them adequate time to effectively advocate for the safety, well-being, and best interests of each child on their caseload. The OCR has taken three main steps to achieve this goal: elimination of the flat fee payment structure and conversion to a statewide fee-for-service payment structure; elimination of the discrepancy between in-court and out-of-court rates; and working with the JBC and the General Assembly to bring the rate of compensation closer to a fair and realistic rate.

The conversion to fee-for-service compensation was a critical first step. Prior to this conversion, the majority of GALs were paid a flat rate to cover two years' worth of work on a case. The rate remained the same, regardless of the number of hours actually dedicated to a case, and contemplated an unreasonably low number of hours to be dedicated to each appointment. By Fiscal Year 2007, GALs statewide were converted to hourly pay, providing more accountability and accuracy in billing and enabling the requisite amount of time to be dedicated to each case. Additionally, because the time GALs spend meeting with children, investigating their best interests, and advocating for them in staffings and other meetings is as critical to preserving their safety and well-being as in-court advocacy, the OCR worked with the JBC to eliminate in Fiscal Year 2007 a then-existing discrepancy between the rates for in-court and out-of-court work.

Finally, the OCR has worked to bring the rate of compensation to a level closer to that of other public sector attorneys. While the rate of compensation has always been far below the rate charged by private sector attorneys, it has also fallen significantly lower than the rate for other public sector attorneys in Colorado (e.g., defense attorneys in the federal system) and attorneys performing services in neighboring states (e.g., GALs in Wyoming). During Fiscal Year 2007, the JBC requested the OCR to develop a long-range plan for the conversion of the hourly rate to an equitable rate. The OCR's goal was to compensate attorneys at a rate of \$75 per hour by Fiscal Year 2009, and then to continue to work with the Office of Alternate Defense Counsel and the Office of the State Court Administrator to determine appropriate methodologies for ongoing adjustment of the rate.

GALs are currently compensated at a rate of \$65 per hour. Mindful of the current financial crisis, the OCR has not sought an increase in compensation in its last two budget requests, and it is not requesting an increase in this year's request. However, in order to continue to recruit and retain qualified and dedicated attorneys, the OCR will continue to work towards fair and realistic compensation for GALs in the form of future budget requests when the state's budget situation will support such requests.

In addition to the changes to the OCR's payment structure, the OCR has also worked to provide attorneys with the necessary independent experts, litigation support, and other resources to effectively advocate for the safety and best interests of children.

G. OCR'S COMPREHENSIVE EVALUATION PLAN

The OCR engages in a comprehensive evaluation strategy, consisting of the following: a statewide annual contract/appraisal process; investigation of complaints concerning GALs; auditing of GAL activity on an as-needed basis; and monitoring of GAL activity through billing statements and available electronic databases. The OCR recognizes the need for data-driven assessment of services and, as such, has instituted a new online case management system effective FY 2011. This system will not only improve GALs' ability to monitor their own case activities but will also allow the OCR to capture data concerning key performance indicators.

Statewide Annual Contract/Appraisal Process: By way of background, in the first year (2002) of the OCR's operations, the Director traveled to all 64 counties in the state to assess and investigate the quality of attorney services. Within that same year, the OCR required every attorney, whether currently practicing as a GAL or interested in providing services in the upcoming year, to participate in an application and interview process. At the conclusion of this process, the OCR contracted with over 200 attorneys and chose not to contract with many who were not meeting the OCR's set standards of practice. The OCR has continued an annual application and interview process since 2002.

The OCR's current contract process includes a series of steps. The OCR first distributes an objective evaluation form to gather feedback on all attorneys who are providing GAL services. The surveys are sent to all CASA agencies, court facilitators, court administrators, and judicial officers throughout Colorado's 22 judicial districts. The survey results assist the OCR in reviewing the competency and quality of attorney services. The office then requires all

attorneys, regardless of whether they have existing contracts or are new applicants, to complete a new application. Every application is considered, as contracts are not automatically renewed.

Each year, OCR attorney staff (including the Director and Deputy Director) conduct meetings with key stakeholders in each of the 22 judicial districts to assess attorney services and to learn how the OCR can better serve its attorneys and each community. Typically, the OCR meets with judicial officers and staff, CASA programs, and attorneys with existing contracts. While the majority of these meetings are conducted in-person, conference calls are occasionally used if necessary to accommodate the stakeholders' schedules. The OCR interviews new applicants if necessary to fulfill the needs of the district. Additionally, beginning in Fiscal Year 2010, the OCR implemented the use of an individual evaluation tool, to be completed by OCR staff in concert with individual attorneys; this time-intensive evaluation tool is used in a select group of jurisdictions each fiscal year.

If any concerns are identified about an attorney during this process, the OCR conducts further targeted assessment of the services the attorney is providing. Examples of such targeted assessments include auditing the attorney's contacts with children in placement or appearances in court.

Upon completion of its annual evaluation process, the OCR compiles its annual list of attorneys eligible for appointment in each judicial district, distributes it to judges and court officers in each judicial district by July 1 of the upcoming fiscal year, and prepares yearly contracts for attorneys on its list.

The OCR's annual appraisal process serves as an effective method of monitoring attorney services and ensures that only the most qualified attorneys provide legal representation for children. It also helps the OCR address systemic needs within each jurisdictional district, such as the need for additional or fewer attorneys, training on a specific issue, or the facilitation of communication between local actors within the system. Taking the time to personally meet with the stakeholders in each judicial district also allows the OCR to learn about the existing provision of services, areas in need of improvement, and ways in which it can serve as a better resource within that community. Finally, the information provided from the annual appraisal process allows the OCR to monitor systemic issues in attorney performance and is a helpful indicator of OCR's progress towards its vision/goals.

In the upcoming years, the OCR intends to expand its evaluation process to include feedback from the children and youth whose best interests are represented by GALs, as well as the parents and caretakers who interact with them.

OCR's Complaint Investigation Process: One of the OCR's first activities was to establish a formal complaint process. This process remains in existence, and OCR attorney staff investigate every submitted complaint concerning an OCR contract attorney. Complaint forms are available on the OCR's website, and hard copies are made available upon request. A complaint must be submitted in writing. While the specifics of each investigation vary depending on the nature of the complaint, the investigation typically involves interviews with the attorney, the complainant and other stakeholders and/or witnesses, including foster parents, judicial officers, county

attorneys, parents' counsel, and caseworkers. A review of the case file and other relevant documents is often warranted.

While the majority of complaints have been unfounded, founded complaints may lead to further investigation of the attorney's performance. While each circumstance is unique, the OCR typically engages in either an audit of the attorneys' files or additional communication with other stakeholders in order to determine whether the founded complaint was a one-time incident or instead part of a pattern of poor performance. When warranted, OCR places the attorney on a corrective action plan or terminates the attorney's contract. The OCR also determines whether it is necessary to remove the attorney from existing appointments

While the primary purpose of the OCR's complaint process is to allow the OCR to identify and remedy problems with attorney performance, the resolution of complaints also provides helpful information on whether the OCR is continuing to make progress towards meeting its vision/goals.

Monitoring of GAL Activity through Hourly Billing Statements and KidsVoice Integrated Data System: Historically, review of hourly billing has also served as a mechanism of monitoring attorney activity. The review of billing statements has allowed the OCR to check every activity or service billed by the attorney, including but not limited to, when the attorney began the case, met with the child, visited the child in foster care, and appeared in court on behalf of the child.

This year, the OCR implemented a new case management/billing system, KidsVoice Integrated Data System ("KIDS"), a web-based system developed by the nonprofit entity KidsVoice USA, LLC. This system allows attorneys to maintain a comprehensive electronic file for each child they serve. Details about placement location, dates and substance of visits with children and contact with other parties/professionals/witnesses, activity and outcomes of court appearances, school and service provider information, and duration of placements is collected in the system. Attorneys are able to quickly access this relevant information for each individual child, and they are also able to run systemic reports allowing them to achieve efficiencies in their practice (e.g., identifying all children who attend a specific school in order to conduct multiple child meetings with just one visit) and self-monitor their compliance with attorney practice standards (e.g., running a report to ensure that all home visits have been conducted within thirty days of placement).

KIDS will significantly improve the OCR's ability to perform comprehensive systemic monitoring of attorney performance and the OCR's progress towards meeting its vision/goals. Although all of the aforementioned evaluation activities do provide helpful indicators of this progress, to date, it has been extremely difficult for the OCR to obtain accurate, timely, and comprehensive reports monitoring key indicators of attorney performance. Subject to attorney work product, KIDS will enable the OCR to run reports on the activity of individual attorneys, all attorneys, or a select group of attorneys (e.g., attorneys in a specific district). The OCR is working with KidsVoice to tailor KIDS to the unique oversight needs of the OCR. The reports available through KIDS will allow the OCR to efficiently run reports on key indicators of attorney performance, such as in-placement contact with children, other contacts with children

and other parties, court appearances, and attendance at staffings. With the implementation of KIDS, the OCR has also required attorneys to enter all activity within 30 days, allowing more timely access to attorney performance data.

The OCR's implementation of KIDS was made possible by the support a private foundation has provided to KidsVoice to subsidize the costs of rolling out this system in three states, including Colorado. Use of KIDS began with all multidisciplinary offices (2nd, 4th, and 18th Judicial Districts) in March 2011, and rollout for all contract attorneys took place in July 2011. Hence, some benchmark data concerning the OCR's progress towards its goals is anticipated to be available by the conclusion of Fiscal Year 2012. As attorney's use of the system extends over time, the OCR's ability to run meaningful and comprehensive reports to monitor its progress towards its vision/goals will continue to improve.