

Ten Fundamentals of Legal Representation of Children

1. The child's attorney has a duty, as far as reasonably possible, to maintain a normal attorney-client relationship, including the obligation to zealously represent the child's interests within the bounds of the law.

- ABA Model Rules of Professional Conduct (Model Rules): Preamble; 1.14(a)
- ABA Model Code of Professional Responsibility (Model Code): EC 7-1; EC 7-12
- ABA Standards of Practice for Lawyers who Represent Children in Abuse and Neglect Cases (ABA Standards): Preface; A-1

2. The child's attorney has a duty to provide competent representation, which includes knowledge, skill, thoroughness and preparation. This includes knowledge of services available for the child.

- Model Rule: 1.1
- MC DR 6-101(A)(1)(2)
- ABA Standards B-1; C

3. The scope of representation by the child's attorney includes the duty, within reason, to abide by the client's decision concerning the objectives of representation.

- Model Rule: 1.2(a)
- Model Code: DR 7-101(A)(1); EC 7-7; EC 7-8
- ABA Standards: B-4

4. The child's attorney has a duty of diligent and prompt representation, and a duty to expedite litigation, especially where placement of a young child is at issue.

- Model Rule: 1.3; 3.2
- Model Code: DR 6-101(A)(3); EC 6-4
- ABA Standards: B-1(4); C-6

5. The child's attorney has a duty of effective, thorough and developmentally appropriate communication with the client, including the duty to meet with the client.

- Model Rule: 1.4 (a), (b)
- Model Code: EC 7-8; 9-2
- ABA Standards: C-1; A-3; B-1(5); D-2; E-2; F-4

6. The child's attorney has a duty of full investigation of the case but shall not communicate about the subject of representation with a represented party without counsel's consent. Opposing counsel shall not communicate with a represented child without the child's attorney's consent.

- Model Rule: 4.2
- Model Code: DR 7-104 (A) (1)
- ABA Standards: C-2(4); C-6

7. Attorneys knowing that a child's attorney has committed a rules violation may have a duty to inform authorities.

- Model Rule: 8.3
- Model Code: DR 103(A)
- ABA Standards: No Provision

8. The child's attorney may not accept third party compensation without assurance that the payment will not effect the representation.

- Model Rule: 1.8(f)
- Model code: DR 5-107 (A), (B)
- ABA Standards: No Provision

9. The child's attorney is prohibited from representation that would constitute a conflict of interest. The child's attorney must be sensitive to the age and maturity of the client where waiver is an issue.

- Model Rules: 1.7
- Model Code: DR 5-101 (A); 5-105(A), (C); 5-107 (B)
- ABA Standards: B-2(2)
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10. The child's attorney is bound by attorney-client confidentiality and privilege.

- Model Rules: 1.6, 3.7
- Model Code: DR 4-101; 5-10
- ABA Standards: A-1; Comment B-2(2)

(prepared by Marvin Ventrell, J.D. in LEGAL REPRESENTATION OF CHILDREN IN DEPENDENCY COURT: TOWARD A BETTER MODEL” - Children’s Law Manual, 1999, pages 167-213).