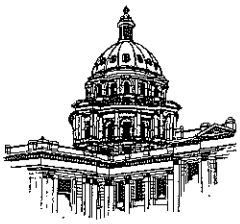

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MEMORANDUM

September 16, 2013

TO: Juvenile Defense Attorney Interim Committee

FROM: Hillary Smith, Senior Research Analyst, 303-866-3277

SUBJECT: Overview of State Law and Recent Legislation Concerning Truancy Proceedings

Summary

This memorandum provides an overview of state law and recent legislation concerning court proceedings filed against truant children. Data on the number of truancy filings in district courts from FY 2007-08 through FY 2011-12 is included. The memorandum also provides information concerning the percentage of truancy cases in which children were represented by an attorney, the percentage of truancy cases in which a guardian ad litem was assigned to a truancy case, and the number of times a child involved in a truancy case was admitted to detention.

Colorado School Attendance Law of 1963

The Colorado School Attendance Law of 1963 guarantees a free public education for Colorado residents between the ages of 6 and 21 and establishes compulsory attendance requirements for children between the ages of 6 and 17.[1] Language within the law expresses the General Assembly's declaration that "two of the most important factors in ensuring a child's educational development are parental involvement and parental responsibility. The General Assembly further declares that it is the obligation of every parent to ensure that every child under such parent's care and supervision receives adequate education and training. Therefore, every parent of a child [between the ages of 6 and 17 must] ensure that such child attends the public school in which such child is enrolled in compliance with this section."[2] The law recognizes exceptions for children enrolled in independent, parochial, or home-school options.

The most recent amendments to the School Attendance Law of 1963 were enacted by House Bill 13-1021, which was passed during the 2013 legislative session. In the sections that

[1]Section 22-33-101, *et seq.*, C.R.S.

[2]Section 22-33-104 (5), C.R.S.

follow, the provisions of HB 13-1021 are incorporated into the explanation of state law. The bill took effect on August 7, 2013.

Habitually truant students. State law defines "habitually truant" to mean a child who is between the ages of 6 and 17 and who has four unexcused absences from public school in any one month or ten unexcused absences from public school during any school year.[3] Each school district is required to adopt and implement policies and procedures concerning elementary and secondary school attendance, including policies to work with habitually truant students. The polices must include the development of a plan with the goal of assisting the child to remain in school.

On an annual basis, each school district is required to report to the Colorado Department of Education (CDE) the number of children identified as habitually truant in the preceding academic year. The CDE is required to post this information online. The federal No Child Left Behind Act of 2001 also requires the CDE to publish truancy rates on a school-by-school basis, but the rates are based on "unexcused days absent," rather than on the number of truant children.[4] These rates are published at: www.cde.state.co.us/cdereval/truancystatistics.htm. In addition, the CDE provided a document titled "Truancy Update 2012," which contains information on truancy laws and statistics related to habitually truant children (Attachment A).

HB 13-1021 also requires each school district to establish attendance procedures for identifying children who are chronically absent and to implement best practices and research-based strategies to improve the attendance of those children.

Judicial enforcement. Court proceedings may be initiated to compel compliance with compulsory attendance laws, but state law, as amended by HB 13-1021, expresses the intent of the General Assembly that, in enforcing the school attendance requirements, a school district is required to employ best practices and research-based strategies to minimize the need for court action and the risk that a court will issue detention orders against a child or parent.[5] A school district may only initiate court proceedings to compel a child and his or her parent to comply with attendance requirements as a last-resort approach and only if the child continues to be habitually truant after the school has created and implemented a plan to improve the child's attendance. All proceedings must be commenced in the judicial district in which a child resides or is present.

Under the Colorado School Attendance Law, each school district is required to adopt an attendance policy that provides for excused absences and specifies the maximum number of unexcused absences a child may incur before judicial proceedings are initiated.[6] The district is also required to designate a district attendance officer, who may be an employee of the school district or the probation officer of a court of record within the district's county.[7] The attendance officer is required to consult with children and parents, investigate the causes of nonattendance, and report to the school district to enforce attendance laws. The attendance officer or, upon his or her request, the local school board, its attorney, or another employee designated by the school district, is required to initiate proceedings for the enforcement of attendance laws.[8]

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[3]Section 22-33-107 (3), C.R.S.

[4]PL 107-110, Title V, Part A, Sec 4112, (c) (3)

[5]Section 22-33-108, C.R.S.

[6]Section 22-33-104 (4), C.R.S.

[7]Section 22-33-107 (1), C.R.S.

[8]Section 22-33-108, C.R.S.

Before initiating court proceedings, the school district is required to give the child and his or her parent written notice that proceedings will be initiated if the child does not comply with attendance requirements. The school district is permitted to combine such notice with a summons to appear in court. If combined, the petition must state the date on which proceedings will be initiated, which must not be less than five days after the date of the notice and summons. The notice is required to state the provisions of the attendance law that a child has violated and that the proceedings will not be initiated if the child complies with that provision prior to filing.

If a school district initiates court proceedings, it must, at a minimum, submit to the court evidence of:

- the child's attendance record prior to and after the point at which the child was identified as habitually truant;
- whether the child was identified as chronically absent and, if so, the strategies the school district used to improve the child's attendance;
- the interventions and strategies used to improve the child's attendance before the school or school district created the child's plan; and
- the child's plan and the efforts of the child, the child's parent, and school or school district personnel to implement the plan.

At its discretion, the court may issue an order against a child, his or her parent, or both compelling the child to attend school or compelling the parent to take reasonable steps to ensure the child's attendance. The order must require the child and parent to cooperate with the school district in complying with the attendance plan created for the child. If the child does not comply with the order, the court may order that an assessment for neglect be conducted and that the child or parent show cause why he or she should not be held in contempt of court.

After a finding of contempt against a child, the court may impose sanctions including: community service; participation in supervised activities; services for at-risk students; and other activities. In addition, after a finding of contempt and that the child has refused to comply with his or her attendance plan, the court may impose a sentence of detention for no more than five days in a juvenile detention facility operated by or under contract with the Colorado Department of Human Services (DHS).[9] After a finding of contempt against a parent, the court may impose a fine of up to $25 per day or confine the parent in the county jail until the order is complied with.

State Data Concerning Truancy Filings

Truancy filings. Table 1 summarizes the number of truancy filings in district courts from FY 2007-08 through FY 2011-12, the most recent year for which data is available. The table provides the number of filings in each judicial district, the percentage change in filings in each district from FY 2007-08 through FY 2011-12, and the total number of truancy filings in the state as a percentage of total juvenile filings. Appendix A to the memorandum contains information about the counties within each judicial district. It should be noted that the Colorado Judicial Branch's annual statistical reports separate juvenile filings from juvenile delinquency filings. Juvenile filings include truancy cases, paternity orders, dependency and neglect cases, expungement proceedings, and other similar matters. Juvenile delinquency filings concern offenses alleged to have been committed by juveniles, such as arson, assault, and theft.

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[9] In 1991, the Colorado Supreme Court found that a statute precluding the court from incarcerating a child in a secure facility for contempt in a compulsory school attendance case violated the separation of powers doctrine of the Colorado Constitution by impermissibly abrogating the judiciary's power to incarcerate juveniles for contempt of court orders, *In Interest of J.E.S.*, 817 P.2d 508 (Colo. 1991).

As illustrated in Table 1, over the past five years, truancy filings have represented about 10 percent of the total juvenile filings in the state and have declined by 17.2 percent over this time period. The judicial district with the largest decline over the five-year period is the 7th Judicial District (Delta, Gunnison, Hinsdale, Montrose, Ouray, and San Miguel Counties), which went from 61 truancy filings in FY 2007-08 to 0 in FY 2011-12 (a 100 percent change) with a large decrease from 65 filings in FY 2008-09 to 1 filing in FY 2009-10. The judicial district with the largest increase over the five-year period is the 3rd Judicial District (Huerfano and Las Animas Counties), which went from 6 truancy filings in FY 2007-08 to 24 truancy filings in FY 2011-12 (a 300 percent change). However, it should be noted that the judicial districts with the highest and lowest percentage change over the time period both had few filings overall. The average number of filings across all 22 judicial districts ranged from 145 per district in FY 2007-08 to 120 per district in FY 2011-12.

Table 1
Number of Truancy Cases Filed in Each Judicial District from FY 2007-08 through FY 2011-12

Judicial District	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Percentage Change from FY 2007-08 to FY 2011-12
1	432	532	362	433	254	-41.2%
2	444	461	408	270	269	-39.4%
3	6	25	17	11	24	300%
4	422	482	484	494	619	46.7%
5	2	9	2	4	3	50.0%
6	0	3	18	12	2	200%
7	61	65	1	10	0	-100%
8	54	50	20	16	10	-81.5%
9	11	23	18	7	2	-81.8%
10	398	222	232	177	98	-75.4%
11	54	28	22	27	36	-33.3%
12	19	23	29	10	12	-36.8%
13	38	50	49	31	44	15.8%
14	0	1	8	4	6	600%
15	6	1	26	0	13	116.7%
16	10	19	22	22	23	130%
17	319	266	240	246	227	-28.8%
18	214	270	320	306	304	42.1%
19	415	363	375	442	367	-11.6%
20	173	225	179	239	204	17.9%
21	106	86	98	90	113	6.6%

Table 1 (Cont.)
Number of Truancy Cases Filed in Each Judicial District from FY 2007-08 through FY 2011-12

Judicial District	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	Percentage Change from FY 2007-08 to FY 2011-12
22	13	9	13	17	17	30.8%
Total	**3,197**	**3,213**	**2,943**	**2,868**	**2,647**	**-17.2%**
Total district court juvenile filings	*33,370*	*32,174*	*30,360*	*29,958*	*28,731*	*-13.9%*
Percentage of total district court juvenile filings that were truancy cases	*10%*	*10%*	*10%*	*10%*	*9%*	*-1.0%*

Source: Colorado Judicial Branch

Representation in truancy cases. The Colorado Children's Code provides that in all proceedings under the School Attendance Law, the court may appoint counsel or a guardian ad litem (GAL) for the child, unless the child is already represented by counsel.[10] If the court finds that it is in the best interest and welfare of the child, the court may appoint both counsel and a GAL. In addition, in all truancy proceedings, the court is required to make available to the child's parent or GAL information concerning the truancy process.

In 2009, the Children's Code was amended to provide further guidance concerning the appointment of GALs in court cases. If a court finds that the appointment of a GAL in a truancy case is necessary due to exceptional and extraordinary circumstances, a GAL may be appointed.[11] According to the Office of the Child's Representative (OCR), GALs are often involved in court-ordered investigations as to why a child is not attending school. GALs may also make recommendations to the court for services to address the child's needs.

Chief Justice directives also provide direction concerning the appointment of counsel. Specifically, Chief Justice Directive 04-04 (Attachment B) applies to the appointment of counsel in contempt situations, and Chief Justice Directive 04-05 (Attachment C) states that "if the court deems representation is necessary to protect the interest of the child or other parties," counsel may be appointed.

Table 2 provides data concerning the number and percentage of truancy cases from FY 2007-08 through FY 2011-12 in which the child had representation at some point in the case. Representation includes attorneys from the Office of the State Public Defender, the Office of the Alternate Defense Counsel, or private practice. Over the five years examined, attorneys were attached to a case about 1.0 percent of the time. In FY 2008-09, attorneys were attached in 2.0 percent of truancy cases, whereas in FY 2010-11, attorneys were attached in 0.4 percent of truancy cases.

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[10]Section 19-1-105 (2), C.R.S.

[11]Section 19-1-111 (2)(b), C.R.S.

Table 2
Number and Percentage of Truancy Cases in which an Attorney was Involved from FY 2007-08 through FY 2011-12

Fiscal Year	Truancy Cases Filed	Cases with an Attorney Attached at Some Point	Percentage of Cases with an Attorney Attached at Some Point
FY 2007-08	3,197	27	0.8%
FY 2008-09	3,213	65	2.0%
FY 2009-10	2,943	18	0.6%
FY 2010-11	2,868	12	0.4%
FY 2011-12	2,647	21	0.8%
Average	2,974	29	0.9%
Total	**14,868**	**143**	**1.0%**

Source: Colorado Judicial Branch

The OCR provided the data in Table 3 summarizing the number of truancy cases for which a GAL was appointed from FY 2007-08 through FY 2011-12. The office also provided the average cost per truancy case for each fiscal year. From FY 2007-08 through FY 2011-12, GALs were appointed in an average of 15.0 percent of truancy cases, and the average cost per case over the five-year period was $391. The OCR also provided detailed information on the number of GAL appointments for truancy cases in each judicial district, the average cost per truancy case in each judicial district, and the total cost of such appointments for each district. This information is available in Attachment D.

Table 3
Number of Guardian ad Litem (GAL) Appointments and Average Cost of the Appointment per Case from FY 2007-08 through FY 2011-12

Fiscal Year	Number of Truancy Filings	Number of GAL Appointments	Percentage of Truancy Filings with a GAL Appointment	Average Cost per Case
FY 2007-08	3,197	514	16.1%	$330
FY 2008-09	3,213	475	14.8%	$467
FY 2009-10	2,943	406	13.8%	$473
FY 2010-11	2,868	416	14.5%	$372
FY 2011-12	2,647	426	16.1%	$313
Average	2,974	447	15.0%	$391
Total	**14,868**	**2,237**	**15.0%**	**Not applicable**

Source: Colorado Office of the Child's Representative

Use of detention in truancy cases. Pursuant to federal regulations and the federal Juvenile Justice and Delinquency Prevention Act of 1974, status offenders are only permitted to be detained up to 24 hours, unless they are found to have violated a valid court order.[12] Status offenders, which include juveniles in truancy proceedings, are juveniles charged with or adjudicated for conduct that would not be an offense if committed by an adult. The Division of Criminal Justice (DCJ) within the Colorado Department of Public Safety monitors the number of times a juvenile is admitted to a detention center for a status offense. The DCJ also tracks the number of times an accused status offender is held for more than 24 hours in detention and the number of times an adjudicated status offender is sentenced to detention without a valid court order (both of which are violations). This information is tracked both by judicial district and by detention facility. The compliance reports are then sent to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the U.S. Department of Justice. If a state's rate of detention violations exceeds federal guidelines, its federal OJJDP funding may be reduced. According to a representative from the DCJ, Colorado's rate of detention violations has never resulted in a funding reduction. Full copies of the compliance reports prepared by the DCJ are available upon request.

The DCJ provided the data in Table 4 concerning the number of admissions to detention centers for juveniles charged with or adjudicated for truancy offenses from calendar years 2010 through 2012. It should be noted that the data concerns the number of admissions to detention, and not the number of cases or children involved. It is possible for one child to be admitted both prior to and post-adjudication, or for one child to be involved in multiple truancy cases. Between 2010 and 2012, detention admissions fell by 6.5 percent, from 480 admissions to 449 admissions. In the same time period, violations fell by 55.7 percent, from 122 violations to 54 violations.

Table 4
Number of Detention Admissions and Violations in Truancy Cases from 2010 through 2012

Category of admission	2010	2011	2012
Number of children accused of truancy held for over 24 hours*	84	44	38
Number of children adjudicated for truancy held without a valid court order*	38	7	16
Number of children adjudicated for truancy held with a valid court order	358	344	340
Total detention admissions	**480**	**395**	**449**
Percentage of admissions that were violations	*25.4%*	*12.9%*	*12.0%*
Percentage change in violations from 2010 to 2012			55.7%
Percentage change in detention admissions from 2010 to 2012			6.5%

Source: Division of Criminal Justice, Colorado Department of Public Safety
**Detentions in this category are considered violations of federal law and regulations*

[12] 28 CFR, Part 31; P.L. 93-415 (1974)

The DCJ also provided the data in Table 5 concerning the number of truancy detention admissions and violations by judicial district from 2010 through 2012. Throughout the three-year period, five judicial districts (the 5th, 6th, 7th, 9th, and 14th) had no detention admissions for truancy cases. Of the 14 judicial districts that had at least one admission in 2010, 10 judicial districts had fewer detention admissions in 2012 than in 2010. Of the 14 judicial districts that had at least one violation in 2010, 13 judicial districts had fewer violations in 2012. The 4th Judicial District had the most detention admissions, with 477 admissions (and 60 violations) over the three-year period. The 10th Judicial District had the most violations, with 62 violations out of 169 admissions over the three-year period.

Table 5
Number of Detention Admissions and Violations in Truancy Cases by Judicial District from 2010 through 2012

District	Total Number of Detention Admissions and Violations in 2010	Total Number of Detention Admissions and Violations in 2011	Total Number of Detention Admissions and Violations in 2012
1	92 admissions; 2 violations	42 admissions; 5 violations	43 admissions; 1 violation
2	1 admission; 1 violation	0 admissions; 0 violations	0 admissions; 0 violations
3	1 admission; 1 violation	2 admissions; 0 violations	0 admissions; 0 violations
4	196 admissions; 30 violations	150 admissions; 12 violations	131 admissions; 18 violations
5	0 admissions; 0 violations	0 admissions; 0 violations	0 admissions; 0 violations
6	0 admissions; 0 violations	0 admissions; 0 violations	0 admissions; 0 violations
7	0 admissions; 0 violations	0 admissions; 0 violations	0 admissions; 0 violations
8	2 admissions; 1 violation	1 admission; 0 violations	4 admissions; 0 violations
9	0 admissions; 0 violations	0 admissions; 0 violations	0 admissions; 0 violations
10	82 admissions; 36 violations	55 admissions; 9 violations	32 admissions; 17 violations
11	5 admissions; 2 violations	16 admissions; 0 violations	1 admission; 0 violations
12	1 admission; 1 violation	0 admissions; 0 violations	0 admissions; 0 violations
13	11 admissions; 7 violations	13 admissions; 9 violations	4 admissions; 0 violations
14	0 admissions; 0 violations	0 admissions; 0 violations	0 admissions; 0 violations
15	6 admissions; 5 violations	2 admissions; 2 violations	2 admissions; 0 violations

Table 5 (Cont.)
Number of Detention Admissions and Violations in Truancy Cases by Judicial District from 2010 through 2012

District	Total Number of Detention Admissions and Violations in 2010	Total Number of Detention Admissions and Violations in 2011	Total Number of Detention Admissions and Violations in 2012
16	0 admissions; 0 violations	10 admissions; 2 violations	5 admissions; 2 violations
17	29 admissions; 19 violations	6 admissions; 4 violations	7 admissions; 1 violation
18	30 admissions; 13 violations	53 admissions; 3 violations	71 admissions; 7 violations
19	18 admissions; 3 violations	41 admissions; 5 violations	77 admissions; 2 violations
20	1 admission; 1 violation	4 admissions; 0 violations	14 admissions; 5 violations
21	0 admissions; 0 violations	0 admissions; 0 violations	2 admissions; 1 violation
22	0 admissions; 0 violations	0 admissions; 0 violations	1 admission; 0 violations

Source: Division of Criminal Justice, Colorado Department of Public Safety

Recent Legislation Concerning Truancy Proceedings

Between 2007 and 2013, the General Assembly enacted seven bills affecting state law on truancy proceedings. A summary of each bill is provided below, and copies of all bills are available upon request.

House Bill 13-1021. In the 2013 legislative session, the General Assembly enacted HB 13-1021, sponsored by Representative Fields and Senator Hudak. The bill contains measures to ensure that children comply with compulsory school attendance requirements and limits the length of detention that a court may impose to enforce those requirements. Under the bill, each school district must adopt and implement policies and procedures concerning elementary and secondary school attendance, including policies and procedures for how to work with children who are habitually truant. The bill specifies that court proceedings to compel compliance with school attendance laws should be pursued as a last resort approach to address truancy, and only pursued if a child continues to be habitually truant after the school or school district has created and implemented a plan to improve the child's school attendance. The bill outlines the actions that the court may take once the school or school district has initiated court proceedings which may include a court order to attend school. If a child is found to be in contempt of court for failing to follow a court order to attend school, the court may issue sanctions that include a sentence for detention of up to five days in a juvenile detention facility. The bill also allows children who are under juvenile court jurisdiction to obtain a General Education Diploma (GED) if the judicial officer or administrative hearing officer finds it is in the child's best interest to do so, and specifies the minimum requirements for education services provided in juvenile detention facilities.

House Bill 11-1053. In 2011, the General Assembly enacted HB 11-1053, which was sponsored by Representative Solano and Senator Steadman. The bill required school districts to initiate court proceedings against truant children or against the parents of such children in order to

compel the attendance of the minors in school only as a last resort and after the district has attempted other options that employ best practices and research-based strategies. The bill also authorized the court to order, as a sanction after finding a child in contempt, participation in services for at-risk students.

Senate Bill 09-256. SB 09-256, which was enacted in 2009 and sponsored by Senators Romer and Bacon and Representatives Pommer and Scanlan, made changes to the distribution of money from the CDE's Expelled and At-Risk Student Services (EARSS) Grant Program during FY 2009-10. Under the bill, at least one half of any increase in the appropriation for the grant program during FY 2009-10 was required to go to applicants providing services and supports designed to reduce the number of truancy cases requiring court involvement and that reflected the best interests of children and families. The bill specified that such services and supports could include alternatives to GAL representation in truancy proceedings. A representative from the OCR stated that this language was intended to clarify that providing services and programs that might eliminate the need to file a truancy case or appoint a GAL in a truancy case is an appropriate use of EARSS funds. Under the bill, the CDE was authorized to retain up to three percent of any money appropriated for the grant program for the purpose of partnering with organizations or agencies that provide services or supports designed to reduce the number of truancy cases requiring court involvement. The CDE is required to report annually on the efficacy of such services to the House and Senate Education Committees. According to the most recent report, in FY 2011-12, 15 school districts received truancy planning grants. The CDE's EARSS Grant Program evaluations can be found at: www.cde.state.co.us/DropoutPrevention/EARSS_Evaluation.htm.

Senate Bill 09-268. In 2009, the General Assembly enacted SB 09-268, which was sponsored by Senator Tapia and Representative Pommer. The bill made a number of clarifications regarding the appointment of professionals in court cases involving children. Specifically, it:

- precluded the court from bearing the cost of a child's legal representative or a child and family investigator in a domestic relations proceeding unless both parties in the case are found to be indigent;
- allowed the court to appoint a GAL in truancy proceedings in cases where the appointment is found to be necessary due to exceptional and extraordinary circumstances;
- required the court to make specific findings that the appointment of a GAL in certain delinquency cases is necessary to serve the child's best interests; and
- clarified when the appointment of a GAL terminates in a delinquency proceeding.

House Bill 09-1243. HB 09-1243, which was enacted in 2009 and sponsored by Representatives Middleton and Massey and Senator Bacon, struck a section of the School Attendance Law that required suspensions and expulsions to be considered unexcused absences in a school district's attendance policy.

House Bill 08-1336. In 2008, the General Assembly enacted HB 08-1336, which was sponsored by Representative Terrance Carroll and Senator Spence. The bill required:

- the State Board of Education to adopt guidelines by January 1, 2009, establishing a standardized calculation for counting unexcused absences of children; and
- every school district to report annually, starting on or before September 15, 2010, to the CDE the number of children identified as habitually truant for the preceding academic year.

The bill also expanded the types of students that a school district may identify as at risk of suspension or expulsion to include truant children. Previously, only children who had been or were likely to be declared habitually truant or habitually disruptive were considered at-risk students. The bill permitted grant funding from the EARSS Grant Program for educational services for truant services. Previously, school districts and eligible schools could seek funding only for educational services for expelled students and for those at risk of expulsion.

Senate Bill 07-050. In 2007, the General Assembly enacted SB 07-050, which was sponsored by Senator Renfroe and Representative Summers. The bill allowed designated school district employees to represent the district in truancy proceedings. The bill also directed districts to adopt a resolution authorizing one or more employees as these district representatives. Previously, attorneys were required to represent districts in truancy proceedings.

Appendix A

Table 1
Counties within each Colorado Judicial District

Judicial District	Counties	Judicial District	Counties
1	Gilpin, Jefferson	12	Alamosa, Conejos, Costilla, Mineral, Rio Grande, Saguache
2	Denver	13	Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Yuma
3	Huerfano, Las Animas	14	Grand, Moffat, Routt
4	El Paso, Teller	15	Baca, Cheyenne, Kiowa, Prowers
5	Clear Creek, Eagle, Lake, Summit	16	Bent, Crowley, Otero
6	Archuleta, La Plata, San Juan	17	Adams, Broomfield
7	Delta, Gunnison, Hinsdale, Montrose, Ouray, San Miguel	18	Arapahoe, Douglas, Elbert, Lincoln
8	Jackson, Larimer	19	Weld
9	Garfield, Pitkin, Rio Blanco	20	Boulder
10	Pueblo	21	Mesa
11	Chaffee, Custer, Fremont, Park	22	Dolores, Montezuma

Source: Colorado Judicial Branch

Attachment A

Colorado Department of Education

Truancy Update 2012

Summary of amendments in the past ten years pertaining to:

22-33-104. Compulsory school attendance
22-33-107. Enforcement of compulsory school attendance
22-33-108. Judicial proceedings
22-33-22. Identification of at-risk students
22-33-205. Services for expelled and at-risk students – grants - criteria

and

2011-12 school and 2011 court statistics pertaining to:

Habitual Truant Counts
Truancy Court Filings

Janelle Krueger
Program Manager, Expelled and At-Risk Student Services
Office of Dropout Prevention and Engagement
Colorado Department of Education
December 2012

cde
COLORADO DEPARTMENT of EDUCATION

Introduction

Grants made available to school entities through the *Expelled and At-risk Student Services* program are authorized to provide support and services to habitual truants. This includes working with the student's family and may include interagency agreements to access specialized services for the student. This update summarizes policy changes that have emphasized more support to aid truant students and that have shifted attitudes about the role and function of truancy court. It also includes statistics for 2011 truancy court petitions and 2011-12 school district referrals to court.

Definition of Habitually Truant

Per C.R.S. 22-33-107, a child who is "habitually truant" means a child who has attained the age of six years on or before August 1 of the year in question and is under the age of seventeen years having:

- four unexcused absences from public school in any one month, or
- ten unexcused absences from public school during any school year.

What is currently required of school districts regarding school attendance?

The School Attendance Law of 1963 sets out attendance requirements and exceptions to them. Among several responsibilities and procedures, Colorado school districts are statutorily required to adopt policies regarding attendance requirements that provide for excused absences and that may include appropriate penalties for nonattendance due to unexcused absence. The policy shall specify the maximum number of unexcused absences a child may incur before judicial proceedings may be initiated. Each district must have an employee designated to act as an attendance officer.

Districts must adopt policies to identify students at risk of suspension and expulsion, of which the policies may also include identifying students *at risk* of being declared habitually truant. Districts must have policies and procedures concerning habitual truants to include the provisions of a plan developed with the goal of assisting the child to remain in school. Districts must annually report the number of habitual truants to the Colorado Department of Education. As a last resort, and after a district has attempted other options/alternatives to court, districts shall initiate court proceedings to compel compliance with the compulsory school attendance law.

Summary of Legislative Amendments in the Past Ten Years

2002 – Judicial Proceedings – Re: Incarceration for Violation of a Valid Court Order

H.B. 02-1079 Allows the court to impose on a juvenile incarceration in a juvenile detention facility for violating a valid court order under the "School Attendance Law of 1963" pursuant to any rules promulgated by the Colorado Supreme Court.

2006 - Compulsory School Act – Re: School attendance age increased from 16 to 17

S.B. 06-73 Raises the age of emancipation from compulsory school attendance from 16 to 17 years and applies the increase in age to the definition of habitual truant. (The age was lowered from 7 to 6 in 2007.)

2006 – Judicial Proceedings – Re: Court jurisdiction to review a board of education's decision

H.B. 06-1112 Judicial proceedings. Aligns a court's judicial review of a *[school board's expulsion]* hearing decision pursuant to rule 106 (a) (4) of the Colorado rules of civil procedure to RULE 3.8 OF THE COLORADO RULES OF JUVENILE PROCEDURE.

In this context, 106(a)(4) pertains to governmental bodies exercising quasi-judicial functions that may have exceeded its jurisdiction or abused its discretion, and there is no plain, speedy and adequate remedy otherwise provided by law.

Rule 3.8. Status Offenders.

Juveniles alleged to have committed offenses which would not be a crime if committed by an adult (i.e., status offenses), shall not be detained for more than 24 hours excluding non-judicial days unless there has been a detention hearing and judicial determination that there is probable cause to believe the juvenile has violated a valid court order (JDF 560). A juvenile in detention alleged to be a status offender and in violation of a valid court order shall be adjudicated within 72 hours exclusive of non-judicial days of the time detained. A juvenile adjudicated of being a status offender in violation of a valid court order (JDF 561) may not be disposed to a secure detention or correctional placement unless the court has first reviewed a written report (JDF 562) prepared by a public agency which is not a court or law enforcement agency. The purpose of the report is to provide the court with useful information prior to sentencing. The report shall address the juvenile's behavior and the circumstances which brought the juvenile before the court and shall assess whether all less restrictive dispositions have been exhausted or are clearly inappropriate. The court is not bound by the recommendations contained in the report. The written report must be signed and dated either before or on the date the juvenile is sentenced to detention. Nothing herein shall prohibit the court from ordering the placement of juveniles in shelter care where appropriate, and such placement shall not be considered detention within the meaning of this rule. Juveniles alleged to have violated C.R.S. 18-12-108.5 or adjudicated delinquent for having violated C.R.S. 18-12-108.5 are exempt from the provisions of this rule.

2007 – Judicial proceedings – Re: School representation in truancy proceedings not limited to attorneys

S.B. 07-50 Allows a school district board of education, by resolution, to authorize one or more employees of the school district to represent the school district in truancy proceedings, even though the employee is not an attorney.

2008 - Compulsory School Attendance – Re: Standardized calculation of unexcused absences

H.B. 08-1336 Requires the state board of education to adopt guidelines for the standardized calculation of unexcused absences of students from school. Requires the department to post this information on the internet. Allows the department to post information on the internet concerning effective, research-based, truancy- and dropout-prevention programs for the benefit of school districts.

2008 – Enforcement of Compulsory School Attendance – Re: School counts of Habitual Truants

H.B. 08-1336 Requires a school district to report annually to the department of education concerning the number of students who are habitually truant.

2008 – Expulsion Prevention Programs – Re: Truants considered "at-risk" and grant-funded services

H.B. 08-1336 Allows a school district to include truant students when identifying students who are at risk of suspension or expulsion from school. Allows certain entities to apply for grants from the expelled and at-risk student services grant program to serve students who are truant. *(Author's note: This is not intended to suggest that suspension and expulsion are appropriate responses to truancy.)*

2009 - Compulsory School Attendance – Re: Suspension and expulsions declared to be excused absences

H.B.09-1243 Requires that a suspension or expulsion count as an excused absence under a school district's attendance policy

2009 – Expulsion Prevention Programs – Re: Additional grant funds to reduce court referrals

S.B.09-256 - Requires the state board to award at least half of any increase in the appropriation for the expelled and at-risk student services grant program for the 2009-10 fiscal year to grant applicants that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of the students and families. Authorizes and encourages the department to retain up to an additional 2% of any moneys appropriated to the expelled and at-risk student program to partner with organizations or agencies that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families.

- As a result of this amendment, the Colorado Department of Education awarded $635,700 to seven Denver-metro area grantees that had the highest numbers of referrals to truancy court.

2011 – Judicial Proceedings – Re: Truancy Court as a last resort and promotion of alternatives to court

H.B. 11-1053 The initiation of court proceedings against a truant minor to compel compliance with the compulsory attendance statute shall be initiated by a school district as a last-resort approach, to be used only after the school district has attempted other options for addressing truancy that employ best practices and research-based strategies to minimize the need for court action and the risk of detention orders against a child or parent. Additionally, a court may order participation in services provided by community organizations and through inter-agency agreements.

Additional Grant-Funded Support, 2011-12

As a result of H.B.11-1053, the Colorado Department of Education utilized a portion of Expelled and At-Risk Student Services (EARSS) grant funds for a 6-month Truancy Reduction Planning Grant.

Eligible applicants were those that had a record of referring truants to court in 2008, 2009, 2010 and that were not currently funded with an EARSS grant. Funds were awarded to 15 school districts.

The expressed purpose of the grant was to reduce referrals to court.

Colorado Statistics Related to Habitual Truancy and Court Filings

Percent of Habitual Truants in Court

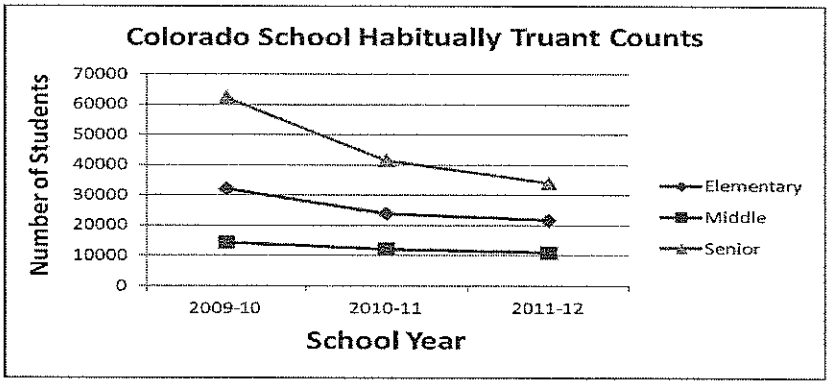
The percent of habitual truants referred to court cannot be calculated on the following data alone. Habitually truant counts cover the fall/spring school year. Court data covers a January through December calendar year. On average, with overlapping calendar and school years, less than 4% of habitual truants are referred to court.

Considering the tens of thousands of habitually truant students in each of the past three years, and less than 3,000 court petitions in each of the past three years, the data indicate that school districts utilize successful interventions in the majority of cases and utilize court as a means of last resort.

Number of Habitually Truant Students			
	School Year		
School Level	2009-10*	2010-11	2011-12
Elementary	31,994	23,808	21,670
Middle	14,370	12,114	11,118
Senior	62,274	41,381	33,984
Total	108,637	77,303	66,772

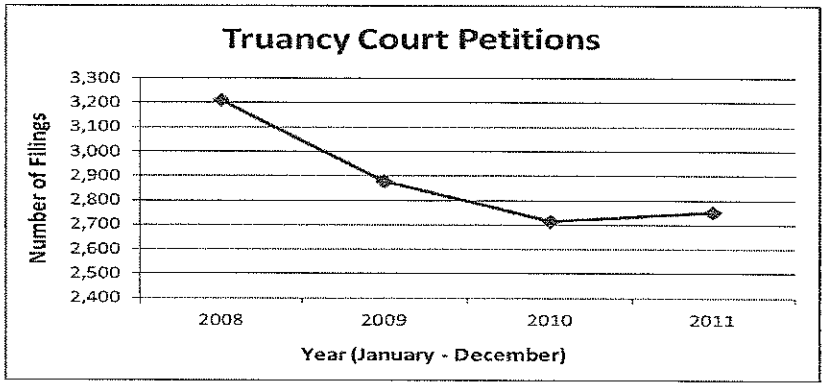
*H.B.08-1336 required school districts to report the number of habitual truants to the Colorado Department of Education. Following the adoption of rules by the State Board of Education to standardize the calculation of unexcused absences, the 2009-10 school year was the first year the counts were reported.

The statewide pupil count for the 2011-2012 school year increased 10,949 from the previous year. This brought the total count of public school students to 854,265.



Truancy Court Petitions				
	2008	2009	2010	2011
Number	3,209	2,880	2,714	2,752

A *Needs Assessment of Truancy Courts* report produced by the Colorado Department of Education in 2011 can be downloaded from: http://www.cde.state.co.us/DropoutPrevention/EARSS_TruancyReductionEfforts.htm



Judicial Districts Calendar Year 2011		
Judicial District	**Counties within the judicial district for truancy filings**	**Total**
4	El Paso, Teller	534
19	Weld	442
1	Jefferson	408
18	Arapahoe, Douglas	302
17	Adams	241
20	Boulder	211
2	Denver	203
10	Pueblo	154
21	Mesa	115
	Subtotal:	**2610**
13	Logan, Morgan	31
11	Fremont, Park	19
8	Larimer	16
16	Bent, Otero	15
3	Huerfano, Las Animas	11
22	Montezuma	9
12	Alamosa	8
15	Prowers	8
6	La Plata	7
7	Montrose	7
14	Moffat, Routt	5
9	Garfield	4
5	Lake	2
	Total	**2,752**

In calendar year 2011, 95% of the state's truancy court filings were in these 9 judicial districts.

School Districts 2011-12 School Year	
The following nine school districts accounted for 73% of the 2011-12 school year truancy filings.	
JEFFERSON COUNTY	414
EL PASO DISTRICT 11 (Colorado Springs)	410
WELD RE-6 (Greeley)	355
DENVER PUBLIC SCHOOLS	205
ADAMS ARAPAHOE 28J (Aurora)	148
BOULDER VALLEY (Boulder)	128
ST. VRAIN VALLEY (Longmont)	117
MESA CO VALLEY (Grand Junction)	115
PUEBLO 60 (Pueblo City Schools)	115
Total	**2,007**

Spreadsheets of annual school-by-school truancy rates can be found at:
http://www.cde.state.co.us/cdereval/truancystatistics.htm
For rate calculations, truancy other than habitual refers to unexcused absences in general.

Sources:

Legislative Summary: Bill Digest, http://www.state.co.us/gov_dir/leg_dir/olls/digest_of_bills.htm
Rule 3.8 Status Offenders: Colorado Court Rules, http://www.lexisnexis.com/hottopics/colorado/
Habitually Truant Data: Data Services, Colorado Department of Education
Truancy Court Filings: Division of Planning and Analysis, Colorado Judicial Branch

Attachment B

Chief Justice Directive 04-04
Amended July 2011

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

APPOINTMENT OF STATE-FUNDED COUNSEL IN CRIMINAL AND JUVENILE DELINQUENCY CASES AND FOR CONTEMPT OF COURT

I. Statutory Authority

A. The federal and state constitutions provide that an accused person has the right to be represented by counsel in criminal prosecutions. This constitutional right has been interpreted to mean that counsel will be provided at state expense for indigent persons in all cases in which actual incarceration is a likely penalty, unless incarceration is specifically waived as a sentencing option pursuant to §16-5-501, C.R.S., or Alabama v. Shelton, 535 U.S. 654 (2002), or there is a waiver of the right to counsel at the advisement.

B. State funds are appropriated to the Office of the Public Defender to provide for the representation of indigent persons in criminal and juvenile delinquency cases pursuant to §21-1-103, C.R.S.

C. State funds are appropriated to the Office of Alternate Defense Counsel to provide for the representation of indigent persons in criminal and juvenile delinquency cases in which the Public Defender declares a conflict of interest pursuant to §21-2-101, C.R.S.

D. Section 19-2-706(2), C.R.S., provides for the representation of juveniles in delinquency cases in which (1) the parent or legal guardian refuses to retain counsel for the juvenile, or (2) the court finds such representation is necessary to protect the interest of the juvenile or other parties involved in the case. When such an appointment is necessary and the juvenile does not qualify for representation by the Public Defender or the Office of Alternate Defense Counsel, the Judicial Department will pay for the costs of counsel and investigator services. However, reimbursement to the state may be ordered, as outlined in this directive.

E. Colorado Rules of Civil Procedure 107 and 407 provide for the appointment of counsel to an indigent person cited for contempt where a jail sentence is contemplated. If the court appoints private counsel to prosecute a contempt action or to represent an indigent party for contempt charges, the Judicial Department will pay for counsel, as there is no statutory authority for the Public Defender or the Alternate Defense Counsel to represent clients for the sole purpose of addressing contempt charges.

II. Indigency Determination

A. A defendant in a criminal case or a juvenile's parent or legal guardian in a delinquency case must be indigent to be represented by the Public Defender or by Alternate Defense Counsel, in cases of Public Defender conflict, at state expense. Such person(s) must also be indigent or otherwise qualify for court-appointed counsel as described in Section III for the court to authorize the payment of certain costs/expenses. Any defendant in a criminal case, or the juvenile's parent, guardian, or legal custodian in a delinquency case, requesting court-appointed representation on

the basis of indigency must complete Form JDF208, Application for Public Defender, Court-Appointed Counsel or Guardian ad Litem, signed under oath.

B. An indigent person is one whose financial circumstances prevent the person from having equal access to the legal process (Attachments A, B, and C).

C. Pursuant to §21-1-103 (3), C.R.S., the initial determination of indigency shall be made by the Public Defender subject to review by the court. Therefore, all persons seeking court-appointed representation shall complete form JDF208 and shall first apply with the Office of the Public Defender. The Public Defender will determine if the defendant, or a juvenile's parent or legal guardian in a delinquency case, is eligible for representation in accordance with the fiscal standards.

D. In all cases, the court retains jurisdiction to determine whether the person is indigent based on all the information available. Upon receipt of the finding by the Public Defender on the issue of eligibility for representation in accordance with the fiscal standards, the court shall review the person's application for Public Defender, including any requests for exception to the determination of the Public Defender. Based on a review of all information available, the court shall enter an order either granting or denying the person's request for appointment of the public defender. The court may use the judicial district's Collections Investigator(s) to provide a recommendation to the court relative to the above determinations, if additional analysis is needed.

E. If the court finds the person indigent and appoints the Public Defender, or in the case of a conflict, the Alternate Defense Counsel, the court may consider ordering the person to make reimbursement in whole or in part to the State of Colorado pursuant to law using the process described in Section V. of this Chief Justice Directive.

F. An attorney or other person appointed by the court on the basis of one or more party's inability to pay the costs of the appointment shall provide timely notice to the court in the event financial related information is discovered that would reasonably call into question the party's inability to pay such costs. The court shall have the discretion to reassess indigence, and for purposes of possible reimbursement to the state, the provisions of Section V. of this Chief Justice Directive shall apply. Based upon a reassessment of a party's financial circumstances, the court may terminate a state-paid appointment, require reimbursement to the State of Colorado of all or part of the costs incurred or to be incurred, or continue the appointment in its current pay status.

III. Guidelines for Appointment of Counsel

A. *Appointment of Public Defender*

1. Appointments on the Basis of Indigency: To be eligible for representation by the Public Defender (PD), a defendant, or a juvenile's parent or legal guardian in a delinquency case, must be indigent, as defined above and determined by the PD, subject to review by the court. If such person is indigent, the court shall appoint the PD, except as otherwise provided in paragraph III.B.

2. Appointments To Assist in Motions Under Rule 35 of the Colorado Rules of Criminal Procedure: An indigent defendant may be entitled to representation by the PD to assist in motions under Rule 35 if the court does not deny the motion under Crim. P. 35(c)(3)(IV). If

another attorney represents the defendant and withdraws, the PD may be appointed if the defendant is indigent and there is no conflict with such representation.

3. Appointments for Appeals:

   a. The court or the PD shall reassess the indigency status of a defendant who requests court-appointed counsel, as described in Section II.A., for purposes of appeal.

   b. When an indigent person has an Alternate Defense Counsel attorney for the trial of a criminal or delinquency case, the PD shall be appointed to represent the defendant on appeal unless the court determines that the PD has a conflict of interest.

B. ***Appointment of Alternate Defense Counsel***

The Office of Alternate Defense Counsel (OADC) shall maintain a list of qualified attorneys for use by the courts in making appointments. Upon appointment of an Alternate Defense Counsel attorney, the clerk shall notify the OADC's designee. No more than one attorney may be appointed as counsel for an indigent person except in specific exceptional circumstances. Accordingly, upon specific written request by counsel for appointment of an additional attorney to assist in the defense of an indigent person, the OADC may approve appointment of an additional attorney for good cause shown. Such requests should be made in writing and directed to the OADC. Alternate Defense Counsel shall be appointed under the following circumstances:

1. Conflict-of-Interest Appointments: The PD shall file a motion or otherwise notify the court to withdraw in all cases in which a conflict of interest exists. The court shall appoint an Alternate Defense Counsel attorney to represent indigent persons in cases in which the court determines that the PD has a conflict of interest and removes the PD from the case. The OADC is responsible by statute to handle all PD conflict cases. Therefore, the OADC shall establish policies and procedures to cover instances when Alternate Defense Counsel has a conflict.

2. Appointments To Assist in Motions Under Rule 35 of the Colorado Rules of Criminal Procedure: An indigent defendant may be entitled to conflict-free counsel to assist in motions under Rule 35 if the court does not deny the motion under Crim. P. 35(c)(3)(IV) and if the PD notifies the court that a conflict of interest exists. The provisions of III.B.1. above shall be followed in appointing an Alternate Defense Counsel attorney.

3. Appointments for Appeals: If the court determines that the PD has a conflict of interest, it shall set forth in a written order the reason for the conflict of interest and the court shall appoint an Alternate Defense Counsel attorney to represent the defendant.

C. ***Appointment of Other Counsel***

1. The Clerk of Court or the District Administrator shall maintain a list of qualified private attorneys from which appointments shall be made under this section. Private counsel appointed under the following circumstances will be paid by the Judicial Department as established in this directive:

   a. Exceptional Circumstances: Counsel in Juvenile Delinquency Cases if Parties are Not Indigent: The parents/legal guardians of juveniles are routinely expected to retain and pay for their own private counsel. Upon any request that the State of Colorado /

Judicial Department pay counsel fees and costs, the initial determination shall be whether the party(ies) are indigent, and if so, the Public Defender or ADC shall be appointed, as described above. If the juvenile and parents/guardians are **not** indigent, the court may appoint counsel in a juvenile delinquency case with consideration for the following:

i. Counsel may be appointed if the court deems representation by counsel is necessary to protect the interests of the juvenile or of other parties or if the parent or guardian refuses to retain counsel, pursuant to §19-2-706(2), C.R.S.
ii. If such appointment is made by the court *and* the juvenile and parents/guardians are not indigent (and therefore not eligible for representation by the Public Defender or ADC), the court shall order the parent or guardian to reimburse the court for the costs of counsel and if applicable, investigator appointment.
iii. The court may waive the requirement that the parent/guardian reimburse the costs of representation *if the court finds good cause for the refusal to retain counsel, such as when a family member is alleged to be the victim of the juvenile's actions.*

b. Appointments of Advisory Counsel: There is no constitutional right to the appointment of advisory counsel to assist a *pro se* defendant. However, pursuant to case law, the court may appoint private advisory counsel either 1) at the request of an indigent *pro se* defendant, or 2) over the objections of an indigent *pro se* defendant to ensure orderly proceedings and to provide assistance to the defendant. If the court appoints private advisory counsel for an indigent *pro se* defendant in a criminal case, the Judicial Department will pay for counsel, as there is no statutory authority for the Public Defender or the Alternate Defense Counsel to advise *pro se* defendants.

c. Appointments of Contempt Counsel: Private counsel may be appointed as a special prosecutor or as counsel for an indigent person facing contempt charges when punitive sanctions may be imposed, in accordance with Rule 107(d) and 407(d) of the Colorado Rules of Civil Procedure. Costs and reasonable attorney's fees in connection with the contempt proceeding may be assessed at the discretion of the court.

d. Appointments of Counsel for Grand Jury Witnesses: A witness subpoenaed to appear and testify before a grand jury is entitled to assistance of counsel pursuant to §16-5-204, C.R.S. For any person financially unable to obtain adequate assistance, counsel may be appointed at state expense. Pursuant to case law, no attorney who provides counsel in the grand jury room may represent more than one witness in a single investigation without grand jury permission. If the court appoints counsel for an indigent witness before a grand jury, the Judicial Department will pay for counsel, as there is no statutory authority for the Public Defender or the Alternate Defense Counsel to represent grand jury witnesses.

e. Appointments of Counsel for Witnesses: An indigent witness subpoenaed to appear and testify in a court hearing may be appointed counsel if the witness requests counsel and the judge determines the appointment of counsel is necessary to assist the witness in asserting his or her privilege against self-incrimination. If the court appoints counsel for an indigent witness for this purpose, the Judicial Department will pay for counsel, as there is no statutory authority for the Public Defender or the Alternate Defense Counsel to represent a witness.

2. For appointments under this section, the appointing judge or magistrate shall, to the extent practical and subject to attorney-client privilege, monitor the actions of the appointee to ensure compliance with the duties and scope specified in the order of appointment.

3. Attorneys appointed under this section shall notify the State Court Administrator, in writing, within five (5) days of any malpractice suit or grievance brought against them.

4. Appointees shall maintain adequate professional liability insurance for all work performed. In addition, appointees shall notify the State Court Administrator, in writing, within five (5) days if they cease to be covered by said liability insurance and shall not accept court appointments until coverage is reinstated.

IV. Guidelines for Payment

A. Public Defender Costs

The Public Defender's Office has attorneys on staff (Deputy Public Defenders) to accept appointments. Court costs and other expenses incurred by the Public Defender shall be billed to the Public Defender's Office in accordance with that office's policies and procedures.

B. Office of Alternate Defense Counsel Costs

Claims for payment of counsel and investigator fees and expenses shall be filed with the OADC. A schedule of maximum hourly rates and maximum total fees for OADC state-funded counsel and investigators is shown in Attachment D (1). Court costs incurred by Alternate Defense Counsel attorneys and investigators shall be billed to the OADC in accordance with that office's policies and procedures.

C. Other Court-Appointee's Costs

The fees and costs associated with appointments described under section III. C. shall be paid by the Judicial Department as follows:

1. Fees and Expenses: Appointments may be made by the courts on an non-contract hourly fee basis or contract basis as set forth by the State Court Administrator's Office. A schedule of maximum hourly rates and maximum total fees for state-funded counsel and investigators is shown in Attachment D (2). Upon appointment of counsel or other appointee, court staff shall enter the appointment in the ICON/Eclipse computer system and complete the appointment on the CAC system for payment and tracking purposes. Claims for payment on hourly appointments shall be entered in the Department's **Internet-based payment system (CACS)**; or, if the Financial Services Division of the State Court Administrator's Office has granted the appointee an exception to the requirement to invoice using CACS, claims for payment shall be filed with the District Administrator in the respective judicial district on the Request and Authorization for Payment of Fees (form JDF207). Claims for payment on flat-fee, contract appointments shall be entered in the Department's Internet-based payment system (CACS); or, if the Financial Services Division of the State Court Administrator's Office has granted the appointee an exception to the requirement to invoice using CACS, such claims for payment shall be filed with the State Court Administrator's Office using the process and format required by that office. All requests for hourly payment must be in compliance with Guidelines for Payment of Court-Appointed Counsel and Investigators Paid

by the Judicial Department for Itemized Fees and Expenses on an Hourly Basis (Attachment E) and shall follow the Court-Appointed Counsel and Investigators Procedures for Payment of Fees and Expenses (Attachment F). All hourly payment requests shall be reviewed by the District Administrator or his/her designee to ensure that all charges are appropriate and in compliance with this directive and applicable fiscal policies and procedures, before authorizing the request. The Office of the State Court Administrator may review, verify, and revise, when appropriate, authorizations for payment. All incomplete or erroneous claims will be returned to the attorney or investigator with an explanation concerning the issue(s) identified.

2. Court Costs, Expert Witness Fees, and Related Expenses: Costs incurred by counsel shall be pre-approved, billed to and paid by the appointing court. Court costs include such items as: expert and standard witness fees and expenses, service of process, language interpreter fees, mental health examinations, transcripts, and discovery costs. Payment of all court costs shall be in accordance with applicable statutes, Chief Justice Directives, and other policies and procedures of the Judicial Department, including the Mandated Costs chapter of the Judicial Department's Fiscal Policies and Procedures manual. Out-of-state investigation travel expenses incurred by the appointee must be accompanied by appropriate travel receipts.

3. Investigator Appointments: If a court appointed attorney paid by the Judicial Department requires the services of an investigator, he or she shall submit a motion to the court requesting authority to hire an investigator. The court shall authorize such appointments as the judge or magistrate deems necessary, and shall issue an order authorizing the amount of investigator fees and expenses that may be incurred, not to exceed the maximum fees set forth in Attachment D (2). The Judicial Department shall pay for investigator services under these circumstances.

4. Online Appointee Billing: Appointees shall invoice the Judicial Department using the Department's Internet-based system (CACS) according to the policies and procedures set forth by the State Court Administrator's Office. An appointee may request an exception to this requirement by contacting the Financial Services Division at the State Court Administrator's Office. In the request, the appointee shall describe the extenuating circumstances preventing the use of CACS for invoicing. The Director of Financial Services or his/her designee shall review such requests and shall have final decision authority concerning the granting or denial of the request. Failure of an appointee to learn or avail him/herself of training on the use of CACS is not sufficient cause to warrant an exception.

5. To maintain the security and integrity of CACS, appointees shall immediately notify the Director of Financial Services, or his/her designee, in writing, of any changes in appointee's staffing or practice that may require cancellation or other changes in the CACS login authority or credentials of appointee or appointee's staff.

6. Failure of appointee to appropriately use CACS shall be sufficient grounds for denial of payment and may result in removal from consideration for future appointments.

D. Court Costs, Expert Witness Fees and Investigator Fees of an Indigent Party who is Not Appointed Counsel

1. In certain circumstances, a defendant's court costs, expert witness fees, and/or investigator fees may be paid by the Judicial Department even though the defendant is not being represented by state-funded counsel (i.e., Public Defender; Alternate Defense Counsel; Judicial-paid counsel). Payment by the local court is appropriate if any of the following statements apply:

   a) The defendant is indigent and proceeding *pro se*;
   b) The defendant is indigent and receiving *pro bono*, private counsel;
   c) The defendant is receiving private counsel but becomes indigent during the course of the case, and the court has determined that the defendant lacks sufficient funds to pay for court costs, and that it would be too disruptive to the proceedings to assign the Public Defender or Alternate Defense Counsel to the case.

2. Court costs include such items as: expert and standard witness fees and expenses, service of process, language interpreter fees, mental health examinations, transcripts, and discovery costs. An investigator appointed by the court under this section shall be paid in accordance with the rates and maximum fees established in Attachment D (2). A motion requesting authorization to hire an investigator, to pay court costs, or for expert witness fees shall be submitted to the court. The Court shall authorize such appointments or payments as the judge or magistrate deems necessary, and shall issue an order authorizing the amount of the costs, fees and expenses that may be incurred under this section. For maximum rates for payment of expert witnesses, see CJD 87-01, as amended.

E. In instances in which fees for activity such as travel time, waiting time, and mileage expenses were incurred simultaneously for more than one court appointment, appointees shall apportion the fees or expenses across cases, as applicable. (For example, traveling to/from court would be billed 50% on the client A appointment and 50% on the client B appointment if the appointee made one trip to cover both clients' hearings.)

V. Reimbursement to the State

A. If the court determines, at any time before, during the course of the appointment (at the court's discretion if questions concerning indigence arise), or after the appointment of state-funded counsel, that the person has the ability to pay all or a part of the expenses for representation including related, ancillary costs, the court shall enter a written order that the person reimburse all or a part of said expenses and inform the responsible party of this obligation. Such order shall constitute a final judgment including costs of collection, and may be collected by the state in any manner authorized by law. The court's financial review concerning ability to pay counsel fees and costs may be accomplished with the use of the judicial district's Collections Investigator. If the defendant is placed on probation, the court may require payment for the costs of representation as one of the conditions of probation.

B. If the court appoints counsel for a juvenile in a delinquency case because of the refusal of a non-indigent parent, guardian, or other legal custodian to retain counsel for the juvenile, the court shall order the responsible party(ies) (unless the county department of social services or the Department of Human Services is the responsible party) to reimburse the state for the costs of

counsel unless the court finds there is good cause for the refusal to retain counsel pursuant to §19-2-706(2)(b), C.R.S.

C. Collection of fees and costs related to court-appointed representation may be referred to the Collections Investigator or a private collector that has an agreement for such collection services with the State Court Administrator's Office.

D. Costs for representation provided may be assessed against the responsible party(ies) at the fixed hourly rate for state-funded private counsel, at the state-funded counsel flat fee rate, or at the hourly cost of providing legal representation by the Public Defender or Alternate Defense Counsel for the number of hours reported by counsel to the court. Other costs incurred for the purposes of prosecution of the case may also be assessed including, for example, costs for transcripts, witness fees and expenses, and costs for service of process. In addition, the responsible party(ies) may be required to pay costs of collection. Costs incurred for accommodations required under the Americans with Disabilities Act, such as hearing interpreter fees, may not be assessed.

VI. Complaints

A. All written complaints and documentation of verbal complaints regarding the performance of any state-paid counsel shall be submitted to the District Administrator.

B. All complaints shall be referred by the District Administrator to the appropriate agency or person. Public Defender complaints shall be submitted to the Public Defender's Office. Complaints against an Alternate Defense Counsel attorney shall be submitted to the Alternate Defense Counsel Office. The District Administrator will forward all other complaints to the presiding judge or, if appropriate, the Chief Judge of the district unless a conflict exists due to the judge's involvement in a pending case. If a conflict exists, the District Administrator will forward the complaint to another judge designated for that purpose.

C. If the complaint involves an attorney and the reviewing judge or District Administrator determines that the person may have violated the Colorado Rules of Professional Conduct, the information shall be filed with the Colorado Supreme Court Office of Attorney Regulation Counsel. The Regulation Counsel shall advise the reporting judge or District Administrator and the State Court Administrator of the final outcome of the investigation.

D. Copies of all written complaints and documentation of verbal complaints regarding state-paid counsel shall be forwarded by the District Administrator to the State Court Administrator's Office. The State Court Administrator may investigate a complaint and take action he/she believes is necessary to resolve any concerns or issues raised by the complaint. Such action may include, but is not limited to, terminating the contract with the attorney.

VII. Sanctions

A. All contracts with the Judicial Department for appointments addressed in this Chief Justice Directive shall include a provision requiring compliance with this Chief Justice Directive. Failure to comply with this Directive may result in termination of the contract and/or removal from the appointment list.

B. Judges and Magistrates shall notify appointees that acceptance of the appointment requires compliance with this Directive, and that failure to comply may result in termination of the current appointment and/or removal from the appointment list.

CJD 04-04 is amended and adopted effective July 1, 2011.

Done at Denver, Colorado this 28th day of June, 2011.

/s/
Michael L. Bender, Chief Justice

Applicant Name _____ **Court** _____

Case Number _____ **Case Name** _____

FISCAL STANDARDS - ELIGIBILITY SCORING INSTRUMENT

Use information from Form JDF208 and information provided by applicant during screening interview. Circle the points in the category that applies and transfer to the "Points" column. Total at end.

Factor				Points
1. Income Guidelines **Gross income from all members of the household who contribute monetarily to the common support of the household.** Income categories include: wages, including tips, salaries, commissions, payments received as an independent contractor for labor or services, bonuses, dividends, severance pay, pensions, retirement benefits, royalties, interest/investment earnings, trust income, annuities, capital gains, Social Security Disability (SSD), Social Security Supplemental Income (SSI), Workman's Compensation Benefits, Unemployment Benefits, and alimony. **Gross income shall not include income from TANF payments, food stamps, subsidized housing assistance, veteran's benefits earned from a disability, child support payments or other public assistance programs.** **NOTE: Income from roommates should not be considered if such income is not commingled in accounts or otherwise combined with the Applicant's income in a fashion which would allow the applicant proprietary rights to the roommate's income.)**	At or below guidelines	Up to 10% above guidelines	11% to 75% above guidelines (Not eligible if income is more than 75% above guidelines.)	
	150	**100**	**0**	
2. Expenses vs. Income **(Expenses for nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc., shall not be included.)**	Monthly expenses exceed income by over $100	Monthly expenses are within $100 of income	Monthly income exceeds expenses by over $100	
	50	**25**	**0**	
3. Charge (most severe) **vs. Assets which could be used to pay defense costs** **(Assets to include cash on hand or in accounts, stocks, bonds, certificates of deposit, equity, and personal property or investments which could readily be converted into cash without jeopardizing the applicant's ability to maintain home and employment.)**	Class 1 – Class 3 Felony or Habitual Offender related	Class 4 - Class 6 Felony	Class 1 - Class 3 Misdemeanor or jailable Traffic	
Assets $0 - $750	**150**	**125**	**50**	
Assets $751 - $1,500	**125**	**100**	**25**	
Assets $1,501 - $2,500	**100**	**75**	**0**	
Assets $2,501 - $5,000	**75**	**50**	**0**	
Assets $5,001 - $7,500	**50**	**25**	**0**	
Assets $7,501 - $10,000	**25**	**0**	**0**	
Assets over $10,000	**0**	**0**	**0**	
TOTAL POINTS				

150 or greater	**Less than 150**
☐ Indigent - Eligible for Public Defender (Note: Reimbursement of costs of representation may be ordered by the court pursuant to Section 21-1-106, C.R.S.)	☐ Not Eligible for State-Funded Counsel

☐ EXCEPTION REQUESTED TO [ALLOW / DISALLOW] APPOINTMENT OF [PUBLIC DEFENDER / ALTERNATE DEFENSE COUNSEL (if PD conflict)] NOTWITHSTANDING THE ABOVE SCORE. (Documentation justifying request is attached.)

Evaluated by _____ _____ _____
Print/Type Name Evaluator Signature Date

INCOME ELIGIBILITY GUIDELINES						
(amended January, 2013)						
Family Size	Monthly Income*	Monthly Income plus 10%	Monthly Income plus 75%	Yearly Income*	Yearly Income plus 10%	Yearly Income plus 75%
1	$1,197	$1,317	$2,095	$14,363	$15,799	$25,134
2	$1,616	$1,777	$2,827	$19,388	$21,326	$33,928
3	$2,034	$2,238	$3,560	$24,413	$26,854	$42,722
4	$2,453	$2,698	$4,293	$29,438	$32,381	$51,516
5	$2,872	$3,159	$5,026	$34,463	$37,909	$60,309
6	$3,291	$3,620	$5,759	$39,488	$43,436	$69,103
7	$3,709	$4,080	$6,491	$44,513	$48,964	$77,897
8	$4,128	$4,541	$7,224	$49,538	$54,491	$86,691
* 125% of poverty level as determined by the Department of Health and Human Services						
For family units with more than eight members, add $335 per month to "monthly income" or $4,020 per year to "yearly income" for each additional family member.						
Source: FEDERAL REGISTER (78FR5182, 01/24/2013)						

FISCAL STANDARDS: PROCEDURES FOR THE DETERMINATION OF ELIGIBILITY FOR COURT-APPOINTED COUNSEL ON THE BASIS OF INDIGENCY

A determination of indigency is necessary for certain appointments addressed in Chief Justice Directive 04-04. Any defendant in a criminal case, or the juvenile's parent, guardian, or legal custodian in a delinquency case, requesting court-appointed counsel on the basis of indigency must apply for counsel as described below. The Public Defender and court staff will determine the applicant's eligibility for appointment of counsel in accordance with the following procedures:

- The defendant shall apply for the Public Defender by completing the Application for Court-Appointed Counsel, form JDF208 (Judicial Department Form).

- If the defendant is in custody and cannot post or is not allowed bail, the Public Defender may automatically elect to represent the defendant, and will notify the court either verbally or in writing of the circumstances.

- If the defendant's income (or that of a juvenile defendant's parents/guardians) is at or below the income eligibility guidelines and he or she has no assets, as determined on form JDF208, the Public Defender may automatically elect to represent the defendant, and will submit the form JDF208 to the court to demonstrate eligibility.

- If the defendant's income (or that of a juvenile defendant's parents/guardians) is more than 75 percent above the income eligibility guidelines, the Public Defender will note that the defendant is ineligible for court-appointed counsel, and will submit the form JDF208 to the court to demonstrate ineligibility.

- If eligibility or ineligibility cannot be determined as described above, the eligibility-scoring instrument (Attachment A, CJD 04-04) will be completed, using information obtained on form JDF208. The form is designed to use income and expenses to determine basic eligibility, with an added factor for assets available to pay for an attorney. The points assigned in the "asset" category take into account both the dollar value of the assets and the class type of charges against the defendant. This is to address variations in the types of expenses that might be incurred due to the nature of the charges.

- The total score will determine whether the defendant will be represented by the Public Defender (or the Alternate Defense Counsel in case of Public Defender conflict), or whether the defendant is not eligible for representation at state expense on the basis of indigency. The Public Defender or defendant may request an exception to the eligibility determination based on the score and may submit documentation of the reasons for the exception to the court, which then has the opportunity to make an appointment decision based on all of the information.

ALTERNATE DEFENSE COUNSEL
MAXIMUM HOURLY RATES [1]

ADC Fees	No Distinction of In/Out of Court Hours	Effective Date*
Death Penalty Case (excludes travel)		
Attorney	$85.00 per hour	July 1, 2006
Investigator	$39.00 per hour	July 1, 2006
Type A Felonies	$68.00 per hour	July 1, 2008
Type B Felonies	$65.00 per hour	July 1, 2008
Juvenile, Misdemeanor & Traffic	$65.00 per hour	July 1, 2008
Authorized Investigator	$36.00 per hour	July 1, 2007
Authorized Paralegal/Legal Assistant	$25.00 per hour	July 1, 2007
Travel (regardless of type of case)		
Attorney	$65.00 per hour	July 1, 2008
Investigator	$36.00 per hour	July 1, 2007
Mileage at rate defined by §24-9-104 C.R.S. -	Reimbursement paid per OADC policy.	

* For work performed on or after this date (July 1, 2008)

MAXIMUM TOTAL FEES PER APPOINTMENT

Appointment Type	With Trial / Without Trial	Effective Date
Class 1 felonies & unclassified felonies where the maximum possible penalty is death, life or more than 51 years	$ 24,000 /12,000	July 1, 2008
Class 2 felonies & unclassified felonies where the maximum possible penalty is 41 through 50 years	$ 10,000 / 5,000	July 1, 2008
Class 3, 4, 5 and 6 felonies and unclassified felonies where the maximum possible penalty is from 1 to 40 years	$ 6,000 / 3,000	July 1, 2008
Class 1, 2, and 3 misdemeanors, unclassified misdemeanors, and petty offenses	$ 2,000 / 1,000	July 1, 2008
Juvenile Cases	$ 2,500 / 1,750	July 1, 2008

Juvenile and Misdemeanor Appeals: Refer to OADC web site for minimums/maximums based on case classification.

Felony Appeals and Post-conviction: Refer to OADC web site for minimums/maximums based on case classification.

Investigator maximum fee is what has been previously authorized by the ADC

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[1] Rates may vary pursuant to Chief Justice Directive or ADC Order. The appointee should contact the Office of the Alternate Defense Counsel or visit the web site at www.coloradoadc.org if there is a question concerning the current authorized rate.

JUDICIAL PAID APPOINTMENTS

MAXIMUM HOURLY RATES [1]

All Case Types	In-Court and Out-of-Court	Effective Date*
Court-Appointed Counsel Fee	$65.00 per hour	July 1, 2008
Authorized Investigator	$33.00 per hour	July 1, 2006
Paralegal / Legal Assistant Time	$25.00 per hour	July 1, 2006

*** For work performed on or after this date**

MAXIMUM TOTAL FEES PER APPOINTMENT

Appointment Type	With Trial / Without Trial	Effective Date
Class 1 felonies & unclassified felonies where the maximum possible penalty is death, life or more than 51 years	$ 24,250 / 12,150	July 1, 2008
Class 2 felonies & unclassified felonies where the maximum possible penalty is 41 through 50 years	$ 12,150 / 6,425	July 1, 2008
Class 3, 4, 5 and 6 felonies and unclassified felonies where the maximum possible penalty is from 1 to 40 years	$ 8,575 / 4,300	July 1, 2008
Class 1, 2, and 3 misdemeanors, unclassified misdemeanors, and petty offenses	$ $2,150 / 1,450	July 1, 2008
Juvenile Cases	$ 2,875 / 2,150	July 1, 2008
Appeal	$ 8,575	July 1, 2008
Contempt and Witness	$ 1,450	July 1, 2008

- Billable time for appeals begins on the date of appointment and is for the appeal portion of the case only.
- Investigator maximum fee allowed is calculated from the preceding chart using the case classification and the "without trial" maximum, exclusive of expenses.

[1] Rates may vary pursuant to Chief Justice Directive or Order. The appointee should contact the local district court, State Court Administrator's Office or visit the web site at www.courts.state.co.us if there is a question concerning the current authorized rate.

Guidelines for Itemized Hourly Payment: Judicial Paid Appointments Only

Court-Appointed Counsel and Investigators

A) Claims for payment on an hourly basis by shall be submitted using the Judicial Department's online CAC System (if the appointee is authorized to use this system) or submitted to the appointing court on form JDF207 ("Colorado Judicial Department Request and Authorization For Payment Of Fees") including attachments, and shall be in compliance with these guidelines. For appellate counsel only, claims for payment shall be submitted directly to the Court of Appeals. The claims and attachments shall conform to the Procedures for Payment of Fees and Expenses (Attachment F, this CJD). In accordance with this CJD and all other applicable Department policies and procedures, and upon review and approval by the appointing court, the request for payment will be sent to the State Court Administrator's Office (SCAO) for processing. The SCAO may review, verify, and revise, when appropriate, such authorized requests for payment.

B) A schedule of maximum hourly rates for court-appointed counsel is established by the Supreme Court in Attachment D (2) and/or by Chief Justice Order. **No payment shall be authorized for hourly rates in excess of the Chief Justice Directive or Order. The maximum total fee that may be paid to court-appointed private counsel for representation on a case is established in Attachment D (2). This maximum includes appointee fees (both contract flat fees plus hourly, as applicable), allowable incidental expenses, paralegal, legal assistant, and law clerk time. To find the allowed maximum total fee for investigators, exclusive of expenses, use the case classification type and the "without trial" maximum from the chart in Attachment D (2).**

1. If there are unusual circumstances involved in the case and the appointee determines that additional work must be completed that will create fee charges over the maximum allowed, pre-approval for fees in excess is to be obtained by submitting a Motion to Exceed the Maximum to the presiding judge/magistrate. (While there may be exceptions in which pre-approval is not possible before additional work is performed, seeking pre-approval should be the norm.) If satisfied that the excess fees are warranted and necessary, the presiding judge/magistrate should approve such motion. The District Administrator (or designee) should deny further payment unless accompanied by a Motion to Exceed the Maximum and an order granting the Motion by the presiding judge or magistrate.

2. The Motion to Exceed the Maximum must cite the specific special and extraordinary circumstances that justify fees in excess. The judge or magistrate, in his or her discretion, may grant approval with an Order for Fees in Excess which provides a maximum up to 150% of the established maximum as outlined in Attachment D (2) of this Chief Justice Directive. A subsequent Motion to Exceed Maximum must be submitted for the same appointment if total fees are expected to further exceed the maximum established by the judge or magistrate.

C) **All court appointees and investigators must submit their JDF207 or invoice using CACS, as applicable, to the court <u>within six months of the earliest date of billed activity</u>.** For example, for an invoice containing work performed from January 1, 2010 through June 14, 2010, the *court must receive the bill by June 30, 2010.* Any court appointee or investigator desiring to request an exception to the 6-month rule based on unusual circumstances shall make such request in writing to the Director of Financial Services at the SCAO, or the Director's designee, whose decision concerning payment shall be final. Before an exception will be considered, the request must detail

the extraordinary circumstances concerning a bill or portion of a bill wherein the activity does not fall within the six-month rule.

D) The District Administrator or his/her designee will carefully review all hourly payment requests submitted for approval. To assist in this review, attorneys and investigators must submit a detailed itemization of in-court and out-of-court hours with each request for payment as outlined in Procedures for Payment of Fees and Expenses, Attachment F. Authorization for payment is not automatic, and the District Administrator (or designee) must be satisfied that the number of hours billed and expenses charged are appropriate and necessary for the complexity of the issues involved. If there are questions concerning the reasonableness of the bill, the appropriate judge or magistrate will be consulted. If reimbursement to the state is to be ordered and such order is not already entered, the District Administrator or his/her designee shall notify the appropriate judge.

E) Requests by appointees for reimbursement of expenses must include itemized statements and accompany the request for payment. In addition, such requests must comply with Maximum Hourly Rates/Maximum Fees Per Appointment as set forth in Attachment D (2). When practical, a paralegal or legal assistant should be used for tasks that require legal expertise but can be done more cost-effectively by an assistant, such as drafting court motions or performing some legal research. The billable hourly rate for a paralegal or legal assistant time is found in Attachment D (2). The Judicial Department does not pay for the time of administrative support staff. Therefore, charges for time spent on administrative activities, such as setting up files, typing, copying discovery or other items, faxing documents, making deliveries, preparing payment requests, and mailing letters are not reimbursable costs. Attorneys are expected to have sufficient administrative support for these activities.

1. Certain court costs are paid individually by the appointing court (not SCAO) with prior court approval. The appointing court pays court costs incurred by counsel. Counsel or investigators should submit the bills for items listed below directly to the local court and should not include these costs for reimbursement on the Request for Payment form (JDF207) nor through online billing.

Costs Paid Locally by the Individual Court

- Cost of subpoenas;
- Fees and expenses of witnesses;
- Service of process;
- Language interpreters;
- Mental Health examinations/evaluations;
- Transcripts;
- Discovery Costs (including: Lexis Nexis research charges, medical records, etc.)

2. Court-appointed counsel and investigators may request reimbursement for certain reasonable out-of-pocket expenses that are incurred on behalf of their clients. The following expenses may be claimed on the Request for Payment form (JDF207) or using CACS.

Other Allowable Expenses

- Copy charges at the rate of $0.10 per page (specify the number of copies made);
- Mileage at the rate defined by §24-9-104 C.R.S. (the actual number of miles must be specified for each trip);
- Long-distance telephone calls at cost (if total billing exceeds $50, it must include a copy of the telephone bill with the following information highlighted: date, phone number, and charges);
- Postage at cost (regular 1st class mail charges);
- Reimbursement for delivery and express mail charges are only reimbursable for a case on appeal. A receipt or invoice for these charges must be attached to the order for payment;
- Requests for payment of overnight travel or out-of-state travel require prior authorization by the court and must be in accordance with state travel regulations as described in the Travel section of the Colorado Judicial Department's Fiscal Policies and Procedures manual. Out-of-state travel expenses incurred by the appointee shall be submitted to the court using form JDF207 with the appropriate copies of travel receipts included.

3. The following items are not authorized for payment or reimbursement.

Non-Allowable Expenses

- Phone calls when no contact is made (i.e., no answer, client not available or message left to call back, etc.);
- Fax charges;
- Parking Fees;
- Items purchased for indigent (or other) persons represented which includes meals, books, clothing, and other personal items;
- Administrative activities (as previously discussed)
- Electronic filing fees for which state funded counsel appointments are exempt;
- Any other cost or expense not authorized under Colorado law or Chief Justice Directive for payment by the state or reimbursement to counsel or other party.

F) In any case in which a payment has been made to the attorney by a party who is later determined to be indigent, the state will reimburse the attorney for the total number of hours expended on the case, less any payments received from the party for fees incurred prior to the determination of indigence. The payment calculation is at the allowed Chief Justice Directive and/or Chief Justice Order hourly rate applicable to when the activity occurred.

G) Attorneys shall maintain records of all work performed relating to court appointments and make all such records available to the Judicial Branch for inspection, audit, and evaluation in such form and manner as the Branch in its discretion may require, subject to attorney/client privilege.

H) The Judicial Department will review and respond promptly to any question or dispute concerning a bill received, submitted, or paid. However, due to research time and record retention limitations, there is a time restriction of two years for billing questions and disputes. The two-year restriction starts from the activity date (or date of service) that is in question. For prompt resolution concerning questions or disputes concerning hourly or contract payment requests, all

questions and disputes must be directed to the local court or State Court Administrator's Office immediately when issues arise.

Judicial Paid Appointments

* Procedures for Payment of Fees and Expenses *

GENERAL INFORMATION

These procedures apply to requests for payment of fees and expenses for court-appointed counsel, other appointees, and investigators paid by the Judicial Department on an hourly basis. Payment requests shall be submitted via the Department's online CAC System (CACS) in accordance with the policies and procedures set forth by the State Court Administrator's Office or, if an exception has been granted pursuant to Section IV.C.4. of this Chief Justice Directive, by using the standardized "Colorado Judicial Department Request and Authorization For Payment of Fees" form JDF207 (Judicial Department Form). Completion, including attachments, should adhere to the procedures described below. Requests for payment that do not include the necessary information will be returned to the appointee or to the court for completion or correction.

All appointees, both hourly and contract, who have not yet received payment from the Judicial Department must submit a completed W-9 form and, if applicable, an "Authorization to Pay a Law Firm" form before a payment can be issued. Payments are issued/submitted to whomever the attorney has authorized and approved on W-9 and "Authorization to Pay a Law Firm" forms. Therefore, if an attorney is no longer with the law firm indicated on a prior W-9 and/or Authorization to pay a Law Firm, he/she must complete a new form(s) and submit them to the Financial Services Division at SCAO. The forms are available from the court or from the Financial Services Division by calling (303) 837-3639.

To change only the mailing address, send the address change to the Colorado Judicial Department, Financial Services Division, 101 W. Colfax, Suite 500, Denver, CO 80202, or call for e-mail instructions.

Billing for Representation of Client with Multiple Cases: When billing for multiple cases in representation of the same client (i.e., companion cases), the appointee should work with the Financial Services Division at the State Court Administrator's Office to ensure the appointments/cases are designated as "concurrent" for billing purposes. Appointees must use the "Concurrent Appointment Notification" form, which is available from the Financial Services Division upon request. This applies to situations in which activity occurs simultaneously in the representation of the party across the multiple cases (example: the appointee attends a single court hearing during which more than one of the client's cases is discussed) and allows for the activity to be billed once via a "master" case. Cases in which the appointee's activity does not overlap multiple cases should not be billed concurrently, and should instead be billed by submitting separate invoices for each respective case.

When an attorney is appointed to continue on a case for the purposes of appeal, payment shall be on an hourly basis even if the original appointment was on a contract, flat fee basis.

A. PROCEDURES FOR BILLING

1. Detail of Itemized Billing

Time sheets must be attached to the JDF207 to support the summarized hours billed. (If CACS online billing is used, the detail is entered in this system.) Time must be described in sufficient detail to justify the amount of time spent on the activity. Time reported must include all time spent between the beginning and ending dates of the billing and must be in chronological order. Time sheets must be legible – preferably typed. Expenses must be described. A sample itemization is shown on the next page.

Rates may vary pursuant to Chief Justice Directive or Order. The appointee should contact the local district court, State Court Administrator's Office or visit the web site at www.courts.state.co.us if there is a question concerning the current authorized rates.

a. The billing detail and itemization needs to include date, distinguish between out-of court and in-court time, and a description of service performed. Time must be billed in ***tenths*** of an hour using the decimal system. One-tenth of an hour is equal to six (6) minutes. For example, 12 minutes is charged as 0.2 hours.
b. Mileage itemization must include the date of the trip, the purpose of the trip, and the number of miles traveled for each trip.

2. Other Attachments

a. Investigators must include the order of appointment appointing the attorney for whom the investigator is working, the court's order authorizing an investigator, and the amount of expenses the investigator may incur.

b. If the total fee request (including past payments and the current invoice) exceeds the maximum fee allowed by this Directive as specified in Attachment D (2), a copy of the court's order authorizing fees beyond the maximum must be submitted. Submitting this copy once is sufficient as long as subsequent billings remain within the newly authorized amount.

c. If total expenses exceed $50, all receipts or invoices for those expenses must be submitted with the invoice. If using CACS online billing, submit the receipts to the local court and clearly indicate the case number and billing time frame for which the receipts relate.

d. All receipts for any expenses outside of the guidelines and an explanation for the additional costs must be submitted.

John Sample, Attorney at Law

Date	Activity	In-court	Out-of-court	Paralegal
05/06/10	Court appearance –pending charges	0.4		
05/06/10	Conf with client, father and DA		1.1	
06/05/10	Review family service plan		0.5	
06/09/10	Court appearance, plea, sentencing	0.3		
06/10/10	Meet with client to discuss placement		1.0	
06/11/10	Prepare motion to reconsider placement			0.2
08/07/10	Travel to Lookout Mtn Detention round trip (57 miles)		1.4	
08/07/10	Conf. With client/staffing at Lookout Mtn.		1.0	
08/07/10	Draft restitution Motion			0.2
08/14/10	Restitution Hearing	0.3		
Dates of service 05/6/10 – 08/14/10	Total hours	1.0	5.0	0.4

SUMMARY OF FEES	**Activity:**	
	6.0 hours @ **$65** per hour	$390.00
	0.4 hours @ $25 per hour	$10.00
	TOTAL FEES	**$400.00**
TOTAL MILEAGE	57 miles @ $0.45 per mile (or rate defined by §24-9-104 C.R.S.)	**$25.65**
SUMMARY OF OTHER EXPENSES	Copies: Police report and complaint = 12 pgs @ $0.10	$1.20
	Postage	$0.44
	TOTAL OTHER EXPENSES	**$1.64**
	TOTAL BILLING	**$427.29**

COMPLETION OF THE JDF207 (Hourly Billing if not billing online)

Completion of the JDF207 form is required by the Judicial Department for payment of court appointees appointed on an hourly basis unless the appointee has been authorized to invoice using CACS (online system). The appointee should keep a copy and submit the original plus one copy. All applicable sections of the form should be completed as indicated in the instructions. Attach all required documents before submitting to the local court. All incomplete Requests for Payment will be returned to the appointee for correction(s).

Section I.
Enter the case number of the charges being billed. When billing for multiple cases in representation of the same client (i.e., companion cases), enter all applicable case numbers. If the bill is for appellate charges, include the appeal case number and the original case number being appealed.

Include the name and number of person/(s) represented, the name of the case, applicable county, name of appointing judge/magistrate and current judge/magistrate. Indicate if the case jurisdiction is district or county.

Section II.
Enter all applicable appointee information, attorney registration number, name, complete address, phone, fax, e-mail. If the address has changed, check new address box. For more information concerning changes, review the General Information section in this attachment.

The Social Security Number or Tax Id Number must be included on each JDF207 (for more information concerning authorized payee changes, review the General Information section in this attachment).

Indicate the appointment date, if you are an original or substitute appointee, if the case has or has not gone to trial, if the case was originally under contract. If originally under contract, explain why an hourly bill is being submitted and the date circumstances changed resulting in hourly billing.

Section III.
Indicate the type of representation provided.

Section IV.
Indicate the authority/statute title allowing for the appointment. This is indicated on the original appointment form/order.

Section V.
The indigency status of the person represented must be noted. If the person is found indigent, use the date of determination. If the person is not indigent, indicate which statement is applicable to the party represented and if reimbursement is to be ordered by the presiding judge. This information is usually included in the order of appointment or may be found in the application for court-appointed counsel (form JDF208) or another affidavit of indigence, as requested by the court.

Section VI.
Under this section all charges are to be summarized.

For the activity *from date*, enter the first chronological date of activity billed from the itemized detail document. For the activity *to date*, enter the last chronological date in which activity occurred as itemized in the detail document. Group the *start* and *to date* for activities in which the effective date of the rates (as set by Chief Justice Directive or Chief Justice Order) are the same.

Instructions for summarizing attorney hours and fees are located on the reverse side of the Request and Authorization for Payment of Fees form (JDF207) #5.

For non-attorney billing activity, summarize all non-attorney hours by category. Next, apply the rate as set by Chief Justice Directive or Chief Justice Order and enter the total charge requested in the right column. Summarize all expenses by type, apply the correlating rates and/or receipts and enter the total charge per category. Charges must correspond to attached receipts.

Total all charges and calculate total amount billed.

Include all prior amounts invoiced for the appointment in the "Total Amount Previously billed" line, (excluding the current request).

Determine the cumulative total of fees charged by appointee for the case by adding the "Total Amount Previously billed" plus the current request amount. If the cumulative total is over the authorized maximum, check the indicator box "Exceeds allowed maximum". Include the Motion to Exceed Maximum and the approved Order to Exceed Maximum (if possible, this should be judge/magistrate pre-approved and not requested after services are performed).

Appointee signature and date are required.

If this is the final bill, check the "Final Bill" box.

SUPREME COURT OF COLORADO
OFFICE OF THE CHIEF JUSTICE

APPOINTMENT AND PAYMENT PROCEDURES FOR COURT APPOINTED COUNSEL PURSUANT TO TITLES 12, 13, 14, 15, 19 (DEPENDENCY AND NEGLECT ONLY), 22, 27, AND GUARDIANS *AD LITEM*, CHILD AND FAMILY INVESTIGATORS, AND COURT VISITORS PAID BY THE STATE COURT ADMINISTRATOR'S OFFICE

This policy is adopted to assist the administration of justice with respect to the following appointments:

- Appointment of counsel for children and adults under Titles 12, 13, 15, 19 (dependency and neglect only), 22, and 27;

- Appointment and training of guardians *ad litem* and court visitors appointed on behalf of wards or impaired adults in all cases;

- Appointment of non-attorney child and family investigators in the best interest of children pursuant to §14-10-116.5, C.R.S. For additional policies addressing guidelines for payment, practice standards, guidelines for appointment, complaint process, eligibility, sanctions and the court's authority, role, and responsibilities related to all child and family investigators (attorney, non-attorneys, private paid and state paid) refer to Chief Justice Directive 04-08 and Chief Justice Directive 04-06. This Chief Justice Directive 04-05 provides payment policies governing child and family investigators appointed for indigent parties and paid by the state.

This policy does not cover appointments made pursuant to Titles 16 and 18, nor appointments of counsel in juvenile delinquency matters pursuant to Title 19, nor appointments of guardians *ad litem* for minors, attorney child and family investigators and child's legal representatives (Office of the Child's Representative (OCR) appointments). For information concerning criminal and juvenile delinquency appointments refer to Chief Justice Directive 04-04, and for state paid attorneys appointed in the best interest of children and paid by the OCR, refer to Chief Justice Directive 04-06.

I. STATUTORY AUTHORITY

A. The federal and state constitutions and various Colorado statutes provide authority for the appointment of counsel, guardians *ad litem* (GAL), child and family investigators, and court visitors in certain legal actions.

B. State funds are appropriated to the Judicial Department to provide for representation in dependency and neglect cases and in certain other cases in which the party represented, or the party's parent or legal guardian, is determined to be indigent.

II. ELIGIBILITY DETERMINATION

A. The person for whom representation is requested or, in the case of children, the responsible party, must be indigent to qualify for court-appointed representation at state expense pursuant to Titles 14, 22, and 27 and for representation of respondents in a dependency and neglect action under Title 19. Such person(s) must also be indigent for the court to authorize payment of certain costs and expenses.

B. An indigent person is one whose financial circumstances fall within the fiscal standards set forth in Attachment A.

C. All persons requesting court-appointed representation to be paid by the state on the basis of indigency must complete, or have completed on their behalf, application form JDF208 ("Application for Public Defender, Court-Appointed Counsel or Guardian *ad litem*") signed under oath, before an appointment of counsel at state expense may be considered. Form JDF208 must be completed for the appointment of counsel at state expense in all cases except mental health cases under Title 27, guardianship and protective proceeding cases under Title 15 in which the respondent refuses to or is unable to supply the necessary information, cases in which a minor is requesting counsel for judicial bypass proceedings pursuant to §12-37.5-107(2)(b), C.R.S. Pursuant to §13-90-208, C.R.S. a person who is deaf or hard of hearing may have access to counsel for advice on whether to execute a waiver of state funded interpreter services.

D. For appointments under Title 15 and some appointments under Title 27 where the court believes that the person needs the assistance of counsel and is unable to obtain counsel, the person for whom representation is requested or, in the case of children, the responsible party, need not be indigent to qualify for court-appointed representation at state expense.

E. If, in the interest of justice, a tentative appointment of legal counsel or a guardian *ad litem* for the party is necessary, such appointment may be made pending a final decision regarding indigency. If a review of a person's application shows that the person is not indigent and the person is not qualified to have court-appointed representation at state expense, the court may order the person to reimburse the state for any justifiable fees and expenses as a result of representation provided from a tentative appointment of legal counsel or a guardian *ad litem*.

F. An attorney or other person appointed by the court on the basis of one or more party's inability to pay the costs of the appointment shall provide timely notice to the court in the event financial related information is discovered that would reasonably call into question the party's inability to pay such costs. The court shall have the discretion to reassess indigence, and for purposes of possible reimbursement to the state, the provisions of Section V. of this Chief Justice Directive shall apply. Based upon a reassessment of a party's financial circumstances, the court may terminate a state-paid appointment, require reimbursement to the State of Colorado of all or part of the costs incurred or to be incurred, or continue the appointment in its current pay status.

III. GUIDELINES FOR APPOINTMENT OF COUNSEL, GAL (FOR ADULTS), NON-ATTORNEY CHILD AND FAMILY INVESTIGATORS, AND COURT VISITORS

The Clerk of Court or the District Administrator shall maintain a list of qualified persons from which appointments will be made under this section. The order of appointment shall specify:

1. The authority under which the appointment is made;
2. Reason(s) for the appointment;
3. Scope of the duties to be performed; and
4. Terms and method of compensation (including indigency status).

See Attachments B (Form JDF209) and C (Form JDF210). See Chief Justice Directive 04-08 guidelines for the appointment of child and family investigators.

A. Appointments of Counsel

Appointments may be made under flat fee or hourly contracts developed by the Judicial Department, or if necessary to meet the jurisdiction's needs, on a non-contract hourly fee basis. Any attorney not under contract with the Department who requests appointments must submit to the Chief Judge a request with an affidavit of qualifications for such appointments. The Chief Judge, in his or her discretion, may approve additions to the list of non-contract attorneys at any time. An attorney not under contract with the Judicial Department must submit an updated affidavit to the chief judge every three years to ensure that he or she is maintaining his or her qualifications for such appointments. The judge or magistrate shall consider the number of an attorney's active cases, the qualifications of the attorney, and the needs of the party to be represented when making appointments.

1. Appointment of Counsel for Respondent in Dependency and Neglect Proceedings: Counsel shall be appointed for an indigent parent or guardian in dependency and neglect proceedings as provided under Title 19.

2. Appointment of Counsel for Involuntary or Emergency Alcohol/Drug Commitment Proceedings: Counsel appointments to provide legal representation to eligible persons shall be in accordance with the provisions under Title 27, Articles 81 and 82, as amended.

3. Appointment of Counsel for Care and Treatment of Mentally Ill: Counsel appointments to provide legal representation to eligible persons shall be in accordance with the provisions under Title 27, Article 65, as amended.

4. Appointment of Counsel for Probate, Trusts, and Fiduciaries: Counsel appointments to provide legal representation to eligible persons shall be in accordance with provisions under Title 15, Article 14, as amended.

5. Appointment of Counsel for a Juvenile:

   a. Counsel may be appointed for a child in a truancy matter under Title 22 if adjudication is previously entered and the child is served with a contempt citation or if the court deems representation by counsel necessary to protect the interests of the child or other parties. Parties requesting counsel must complete form JDF208 and a finding of indigence is required for the appointment of counsel at state expense. If the party is not qualified to have court-appointed representation at state expense, the court may order the responsible party(ies) to reimburse the state for any justifiable fees and expenses as a result of representation provided from a tentative appointment of legal counsel.

   b. Counsel may be appointed for a minor under the judicial bypass provisions of the Colorado Parental Notification Act pursuant to §12-37.5-107(2)(b), C.R.S. and Chapter 23.5 of the Colorado Rules of Civil Procedure ("Rules of Procedure for Judicial Bypass of Parental Notification Requirements").

6. Appointment of Counsel for Appeals: The trial court shall determine the need and statutory requirement for appointment of counsel on appeal. The court shall be under no obligation to appoint counsel in appeals where the sole issue for determination is the individual allocation of parental responsibilities between and among two parents. Where applicable, determinations of indigency should be in accordance with the procedure described in section II. The maximum total fee allowable on an appeal shall be in accordance with the maximum fees outlined in section IV. D. Requests for payment shall be filed on Form JDF207 (Colorado Judicial Department Request and Authorization For Payment of Fees) with the appellate court and must contain a copy of the order appointing counsel to represent the indigent person on appeal. An appellate court judge, or designee, shall carefully review all requests for payment submitted to the court for approval.

7. Appointment of Counsel for a Person who is Deaf or Hard of Hearing: Pursuant to §13-90-208, C.R.S., the right of a person who is deaf or hard of hearing to a qualified interpreter or auxiliary service may not be waived except in writing by the person who is deaf or hard of hearing. Prior to executing such a waiver, a person who is deaf or hard of hearing may have access to counsel for advice.

8. Appointment of Counsel in Other Cases: Indigent parties may request that the court appoint counsel in other cases for which there is not specific statutory authority. See, In re C.A.O. for the adoption of G.M.R., 192 P.3d. 508 (Colo. App. 2008). The Judicial Department does not budget for non-statutorily required appointments. In an instance where the court finds constitutional authority for the appointment of counsel for an indigent party, a written order of appointment stating the grounds for appointment, citing legal authority, and certifying payment of counsel at the state rate is required.

B. Appointments of Guardians *ad litem* (for Adults), Non-Attorney Child and Family Investigators and Court Visitors.

The court may appoint a qualified person other than an attorney as a child and family investigator or court visitor when the appointment of an attorney is not mandated by statute. The court shall maintain a list of qualified persons to accept appointments as guardians *ad litem*, court visitors and non-attorney child and family investigators from which the court will make appointments.

1. Appointment of GAL in Dependency and Neglect Case: A guardian *ad litem* may be appointed pursuant to Title 19 for a parent or guardian in dependency and neglect proceedings who has been determined to be mentally ill or developmentally disabled, unless a conservator has been appointed.

2. Appointment of GAL in Trusts or Estates: In formal proceedings involving trusts or estates of decedents, protected persons, and in judicially supervised settlements pursuant to Title 15, a guardian *ad litem* may be appointed for an incapacitated person, unascertained person, or a person whose identity or address is unknown, if the court determines that a need for such representation exists.

3. Appointment of GAL in a Civil Suit: A guardian *ad litem* may be appointed for an incompetent person who does not have a representative and who is a party to a civil suit, pursuant to CRCP 17(c).

4. Appointment of GAL for Emergency or Involuntary Commitment of Alcoholics or Drug Abusers: Upon the filing of a petition for involuntary commitment of alcoholics or drug abusers, a guardian *ad litem* may be appointed for the person if the court deems the person's presence in court may be injurious to him or her pursuant to Title 27.

5. Appointment of Non-Attorney Child and Family Investigator: A non-attorney child and family investigator may be appointed in a domestic relations case pursuant to §14-10-116.5, C.R.S. Also see applicable guidelines pursuant to Chief Justice Directive 04-08. For appointment of an *attorney* child and family investigator, see applicable guidelines implemented through the Office of the Child's Representative pursuant to Chief Justice Directive 04-06. Pursuant to §14-10-116.5(b), C.R.S., in cases where the appointment is made prior to the entry of a decree of dissolution or legal separation, the court shall consider the combined income and assets of both parties for purposes of determining indigence and whether the state shall bear the costs, fees, or disbursements related to the appointment of a child and family investigator. The court shall enter an order for costs, fees, and disbursements against any or all of the parties and, as provided in §14-10-116.5(c), C.R.S., shall make every reasonable effort to apportion costs between the parties in a manner that will minimize the costs, fees, and disbursements that shall be borne by the state. When a responsible party is indigent, the state will pay the non-attorney child and family investigator at the rates established in section IV.C. and IV.D. for the portion of authorized fees and expenses for which the indigent party is responsible.

6. Appointment of Court Visitor: A court visitor shall be appointed for a respondent pursuant to Title 15.

IV. GUIDELINES FOR PAYMENT OF COUNSEL, GUARDIANS *AD LITEM*, NON-ATTORNEY CHILD AND FAMILY INVESTIGATORS, AND COURT VISITORS

A. The fees and costs associated with appointments described under this directive shall be paid by the Judicial Department as follows:

1. Fees and Expenses: Appointments may be made under contracts developed by the Judicial Department or on a non-contract hourly fee basis. Upon appointment of counsel or other appointee, court staff shall enter the appointment in the ICON/Eclipse computer system and complete the appointment on the CAC system for payment and tracking purposes. Claims for payment on hourly appointments shall be entered in the Department's **Internet-based payment system (CACS)**; or, if the Financial Services Division of the State Court Administrator's Office has granted the appointee an exception to the requirement to invoice using CACS, claims for payment shall be filed with the District Administrator in the respective judicial district on the Request and Authorization for Payment of Fees (form JDF207). Claims for payment on flat-fee, contract appointments shall be entered in CACS; or, if the Financial Services Division of the State Court Administrator's Office has granted the appointee an exception to the requirement to invoice using CACS, such claims for payment shall be filed with the State Court Administrator's Office using the process and format required by that office. All requests for hourly payment must be in compliance with Guidelines for Payment of Court-Appointed Counsel, Guardians *ad litem*, Non-Attorney Child and Family Investigators and Court Visitors Paid by the Judicial Department for Itemized Fees and Expenses on an Hourly Basis (Attachment D) and shall follow the Court Appointees and Investigators Procedures for Payment of Fees and Expenses (Attachment E). All hourly payment requests shall be reviewed by the District Administrator or his/her designee to ensure that all charges are appropriate and in compliance with this directive and applicable fiscal policies and procedures, before authorizing the request. The Office of the State Court Administrator may review, verify, and revise, when appropriate, authorizations for payment. All incomplete or erroneous claims will be returned to the attorney or other appointee with an explanation concerning the issue(s) identified.

2. Court Costs, Expert Witness Fees, and Related Expenses: Costs incurred by counsel shall be pre-approved and paid by the appointing court. Court costs include such items as: expert witness fees and expenses, service of process, language interpreter fees, mental health examinations, transcripts, and discovery costs. Payment of all court costs shall be in accordance with applicable statutes, Chief Justice Directives/Orders, and other policies and procedures of the Judicial Department, including the Judicial Department's Fiscal Policies and Procedures manual. A motion requesting authorization to hire an investigator, to pay court costs, or for expert witness fees shall be submitted to the court. The court shall authorize such

appointments or payments as the judge or magistrate deems necessary, and shall issue an order authorizing the amount of the costs, fees and expenses that may be incurred under this section. For maximum rates for payment of expert witnesses, see CJD 87-01, as amended.

3. Online Appointee Billing: Appointees shall invoice the Judicial Department using the Department's Internet-based system (CACS) according to the policies and procedures set forth by the State Court Administrator's Office. An appointee may request an exception to this requirement by contacting the Financial Services Division at the State Court Administrator's Office. In the request, the appointee shall describe the extenuating circumstances preventing the use of CACS for invoicing. The Director of Financial Services or his/her designee shall review such requests and shall have final decision authority concerning the granting or denial of the request. Failure of an appointee to learn or avail him/herself of training on the use of CACS is not sufficient cause to warrant an exception.

4. To maintain the security and integrity of CACS, appointees shall immediately notify the Director of Financial Services, or his/her designee, in writing, of any changes in appointee's staffing or practice that may require cancellation or other changes in appointee's or appointee's staff's CACS login authority and credentials.

5. Failure of appointee to appropriately use CACS shall be sufficient grounds for denial of payment and may result in removal from consideration for future appointments.

B. A flat fee contract system is available to the Judicial Districts to use in appointing and compensating attorneys for certain appointment types. The Department contracts with individual attorneys for this purpose on a state fiscal-year basis (July 1 through June 30) at rates established by the Department. Claims for payment by attorneys for appointments made under flat fee contracts shall be submitted by appointees in compliance with the procedures specified in the contract and set forth by the State Court Administrator's Office. Claims for payment not covered by flat fee contracts with the Department shall be submitted in accordance with the procedures described in this Section IV and Attachment E. Judicial districts shall make every effort to appoint flat fee contractors on the appointment list if that compensation method is selected by the district. For each appointment type in which flat fee or hourly contracts with private counsel may be established, either a flat fee compensation method or an hourly compensation method should be adopted by the district for the given fiscal year, not both.

C. The following maximum hourly rates are established for any hourly invoicing. (No payment shall be authorized for hourly rates that exceed the "maximum hourly rates.")

MAXIMUM HOURLY RATES (IN AND OUT OF COURT)

Court-appointed Counsel and Guardian *ad litem* (for adult)	$65 per hour
Non-Attorney Child and Family Investigator	$25 per hour
Paralegal, Legal Assistant, or Law Clerk Time	$25 per hour

Court-authorized Investigator	$33 per hour
Court Visitor	$25 per hour

D. Maximum total fees that may be paid by the Department for court-appointed counsel, guardians *ad litem*, non-attorney child and family investigators, or court visitors are as follows:

MAXIMUM TOTAL FEE PER APPOINTMENT

Title 19 – Dependency and Neglect Matters	
Respondent Parent Counsel	$2,870
Non-Attorney Child and Family Investigator	$1,250
Title 19 – Other Matters (i.e. delinquency GAL, support, adoption, paternity, etc.)	
Non-Attorney Child and Family Investigator	$ 625
Titles 14 and 15	
Counsel (probate only)	$2,870
Guardian *ad litem* (for adult)	$2,870
Non-Attorney Child and Family Investigator	$1,250
Court Visitor	$ 500
Titles 22 and 27	
Counsel	$ 750
Guardian *ad litem* (for adult)	$ 750
Appeals	
Counsel and Guardian *ad litem* (for adult)	$2,870

E. Under no circumstances shall the total fees exceed the maximums outlined without a detailed written motion and detailed written order showing the specific special circumstances that justify fees in excess of the maximum (see guidelines in Attachment D, paragraph B). If a court-appointed attorney chooses to use the support of a paralegal, legal assistant, investigator, or law clerk, the combined fees, inclusive of expenses, of the attorney or non-attorney appointee and other support staff shall not exceed the total maximum outlined.

F. To maintain effective representation by court-appointed counsel and to provide basic fairness to attorneys and others so appointed, the State Court Administrator is directed by the Chief Justice to periodically review and make recommendations concerning the fee schedule established in this CJD and/or Chief justice Order for court-appointed counsel.

G. Appointees shall maintain records of all work performed relating to court appointments and make all such records available to the Judicial Department for inspection, audit, and evaluation in such form and manner as the Department in its discretion may require, subject to any applicable attorney/client privilege.

H. In instances in which fees for activity such as travel time, waiting time, and mileage expenses were incurred simultaneously for more than one court appointment, appointees shall apportion the fees or expenses across cases, as applicable. (For example, traveling to/from court would be billed 50% on the client A appointment and 50% on the client B appointment if the appointee made one trip to cover both clients' hearings.)

V. REIMBURSEMENT TO THE STATE FOR COURT-APPOINTED COSTS

A. For all appointments requiring a finding of indigence, the court shall review the indigency status of the responsible party(ies) or estate at the time of appointment, during the course of the appointment (at the court's discretion if questions concerning indigence arise), and, if feasible, at the time of case closure. In the case of a court visitor appointment, the petitioner and/or the respondent may be ordered to pay all or a portion of the visitor's fees and expenses if they are not determined to be indigent. If the court determines, at any time before or after appointment of counsel, guardian *ad litem*, non-attorney child and family investigator or court visitor, that the responsible party(ies) or estate has the ability to pay all or part of the costs for representation or other costs, the court shall enter a written order that the person(s) or estate reimburse all or part of said costs. Such order shall constitute a final judgment including costs of collection and may be collected by the state in any manner authorized by law.

B. Collection of fees and costs related to court-appointed representation and other costs may be referred to the Collections Investigator or a private collector with whom the Judicial Department has contracted.

C. Costs for representation provided may be assessed against the responsible party(ies) at the fixed hourly rate for state-funded private counsel, at the state-funded counsel contract rate, or at the hourly cost of providing legal representation for the number of hours reported by counsel to the court. Other costs incurred may also be assessed including, for example, costs for transcripts, witness fees and expenses, and costs for service of process. In addition, the responsible party(ies) may be required to pay costs of collection. Costs incurred for accommodations required under the Americans with Disabilities Act, such as sign language interpreter fees, may not be assessed.

VI. TRAINING OF GUARDIANS *AD LITEM* AND COURT VISITORS APPOINTED ON BEHALF OF WARDS OR IMPAIRED ADULTS

A. Attorneys appointed as a guardian *ad litem* shall possess the knowledge, expertise, and training necessary to perform the court appointment, and shall be subject to all of the rules and standards of the legal profession.

B. In addition, the guardian *ad litem* shall obtain 10 hours of continuing legal education, or other courses relevant to an appointment that enhance the attorney's knowledge of the issues in representation, per legal education reporting period. The court shall require that proof of such education, expertise, or experience is on file with the court at the time of appointment.

C. In those cases in which a non-attorney is appointed as a court visitor, the non-attorney shall also demonstrate the knowledge, expertise, and training necessary to fulfill the terms of the appointment. The court may determine whether the person's knowledge, expertise, and training are adequate for an appointment, and may require the person to demonstrate his or her qualifications.

VII. DUTIES OF GUARDIANS *AD LITEM* AND COURT VISITORS APPOINTED ON BEHALF OF WARDS OR IMPAIRED ADULTS

A. The person appointed shall diligently take steps that he or she deems necessary to protect the interest of the person for whom he or she was appointed, under the terms and conditions of the order of appointment, including any specific duties set forth in that or any subsequent order. If the appointee finds it necessary and in the best interests of the ward or impaired adult, the appointee may request that the court expand the terms of the appointment and scope of the duties.

B. Persons appointed shall perform all duties as directed by the court, which may include some or all of the duties described below:

1. Attend all court hearings and provide accurate and current information directly to the court. (*Although another qualified attorney may substitute for some hearings, this should be the exception.*)

2. At the court's direction and in compliance with applicable statutes, file written or oral report(s) with the court and all other parties.

3. Conduct an independent investigation in a timely manner, which shall include, at a minimum:

   (a) Personally meeting with and observing the client, as well as proposed custodians, when appropriate;

   (b) Reviewing court files and relevant records, reports, and documents;

In cases in which the ward or impaired person is living or placed more than 100 miles outside of the jurisdiction of the court, the requirements to personally meet with and interview the person are waived unless extraordinary circumstances warrant the expenditure of state funds required for such visits. However, the appointee shall endeavor to meet the person if and when that person is within 100 miles of the jurisdiction of the court.

VIII. DUTIES OF JUDGES AND MAGISTRATES

A. For any type of court appointment under this Chief Justice Directive, the appointing judge or magistrate shall, to the extent practical and subject to attorney-client privilege, monitor the actions of the appointee to ensure compliance with the duties and scope specified in the order of appointment.

B. Judges and magistrates shall ensure that guardians *ad litem* and court visitors involved with cases under their jurisdiction are representing the best interests of adult wards or impaired adults and performing the duties specified in this order. In providing this oversight, judges and magistrates shall:

1. Routinely monitor compliance with this directive;

2. Encourage local bar associations to develop and implement mentor programs which will enable prospective guardians *ad litem* and court visitors to learn these areas of the law;

3. Meet with guardians *ad litem* and court visitors at the first appointment to provide guidance and clarify the expectations of the court;

4. Hold periodic meetings with all practicing guardians *ad litem* and court visitors as the court deems necessary to ensure adequate representation of wards or impaired adults.

See Chief Justice Directive 04-08 for the court's authority, role and responsibility related to child and family investigators.

IX. COMPLAINTS

A. Colorado's "Practice Guidelines for Respondent Parents' Counsel in Dependency and Neglect Cases" (Attachment F to this directive) may provide helpful guidance in the Court's investigation of the complaint regarding court-appointed Respondent Parents' Counsel. All written complaints and documentation of verbal complaints regarding the performance of any state paid counsel, guardian *ad litem*, or court visitors appointed pursuant to this directive shall be submitted to the District Administrator. The District Administrator shall forward the complaint to the presiding judge or, if appropriate, the chief judge of the district unless a conflict exists due to the judge's involvement in a pending case. If a conflict exists, the District Administrator will forward the complaint to another judge designated for that purpose.

B. If the complaint involves an attorney and the reviewing judge or District Administrator determines that the person may have violated the Colorado Rules of Professional Conduct, the information shall be filed with the Colorado Supreme Court Office of Attorney Regulation Counsel. The Regulation Counsel shall advise the reporting judge or District Administrator and the State Court Administrator of the final outcome of the investigation.

C. Copies of all written complaints and documentation of verbal complaints, and the results of the investigation including any action taken with regard to Judicial paid counsel, guardians *ad litem*, , and court visitors shall be forwarded by the District Administrator to the State

Court Administrator's Office. The State Court Administrator may conduct an additional investigation and take action he believes is necessary to resolve any concerns or issues raised by the complaint. Such action may include, but is not limited to, terminating the contract with the attorney, GAL, non-attorney child and family investigator or court visitor.

See Chief Justice Directive 04-08 for the complaint process regarding the performance of child and family investigators.

X. SANCTIONS

A. All contracts with the Judicial Department for appointments addressed in this Chief Justice Directive shall include a provision requiring compliance with this Chief Justice Directive. Failure to comply with this Directive may result in termination of the contract and/or removal from the appointment list.

B. Judges and magistrates shall notify appointees that acceptance of the appointment requires compliance with this Directive, and that failure to comply may result in termination of the current appointment and/or removal from the appointment list.

See Chief Justice Directive 04-08 for sanctions regarding child and family investigators.

XI. GRIEVANCES, MALPRACTICE, AND LIABILTY

A. Attorneys appointed shall notify the State Court Administrator, in writing, within five (5) days of any malpractice suit or grievance brought against them.

B. Professional appointees shall maintain adequate professional liability insurance for all work performed. In addition, professional appointees shall notify the State Court Administrator, in writing, within five (5) days if they cease to be covered by said professional liability insurance and shall not accept court appointments until coverage is reinstated.

See Chief Justice Directive 04-08 for grievance, malpractice, and liability regarding child and family investigators.

Effective April, 2005. Amended to be made consistent with amendments to Chief Justice Directive 04-08 and made effective November, 2011 in Denver, Colorado.

Done at Denver, Colorado this 30th day of November, 2011.

/s/
Michael L. Bender, Chief Justice

PROCEDURES FOR THE DETERMINATION OF ELIGIBILITY FOR COURT APPOINTED COUNSEL AND GUARDIAN AD LITEM REPRESENTATION ON THE BASIS OF INDIGENCY

Indigency Determination

Persons requesting court-appointed representation to be paid by the state on the basis of indigency must complete, or have completed on their behalf, application form JDF208 ("Application for Court-Appointed Counsel or Guardian *ad litem*") signed under oath, before such an appointment may be considered by the court. Form JDF208 must be completed for the appointment of counsel at state expense in all cases except mental health cases under Title 27 in which the respondent refuses to or is unable to supply the necessary information and cases in which a minor is requesting counsel for judicial bypass proceedings pursuant to §12-37.5-107(2)(b), C.R.S.

Procedures for the Determination of Indigency

- *Completion of Form JDF208 by Applicant*
  Persons applying for state paid counsel or guardian *ad litem* representation must complete, or have completed on their behalf, the Application for Court-Appointed Counsel, form JDF208, and submit it to the court.

- *Review of Financial Information by Court Personnel*
  Court personnel shall review the applicant's information on form JDF208 to determine whether or not the applicant is indigent on the basis of three factors:
  - Income [1]
  - Liquid assets [2]
  - Expenses [3]

Criteria for Indigency

An applicant qualifies for court appointed counsel or guardian *ad litem* on the basis of indigency if his or her financial circumstances meet either set of criteria described below.

1. Income is at or below guidelines / Liquid assets equal $0 to $1,500

- If the applicant's income is at or below the income eligibility guidelines and he or she has liquid assets of $1,500 or less, as determined on form JDF208, the applicant is indigent and eligible for court appointed counsel or guardian *ad litem* representation at state expense.

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[1] *Income is gross income from all members of the household who contribute monetarily to the common support of the household. Income categories include: wages, including tips, salaries, commissions, payments received as an independent contractor for labor or services, bonuses, dividends, severance pay, pensions, retirement benefits, royalties, interest/investment earnings, trust income, annuities, capital gains, Social Security Disability (SSD), Social Security Supplemental Income (SSI), Workers' Compensation Benefits, Unemployment Benefits, and alimony. NOTE: Income from roommates should not be considered if such income is not commingled in accounts or otherwise combined with the applicant's income in a fashion which would allow the applicant proprietary rights to the roommate's income.*

Gross income shall not include income from TANF payments, food stamps, subsidized housing assistance, veteran' benefits earned from a disability, child support payments or other assistance programs.

[2] *Liquid assets include cash on hand or in accounts, stocks bonds, certificates of deposit, equity, and personal property or investments which could readily be converted into cash without jeopardizing the applicant's ability to maintain home and employment.*

[3] *Expenses for nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc., shall not be included. Allowable expense categories are listed on form JDF208.*

2. **Income is up to 25% above guidelines / Liquid assets equal $0 to $1,500 / Monthly expenses equal or exceed monthly income**

   - If the applicant's income is up to 25% above the income eligibility guidelines; the applicant has assets of $1,500 or less; and the applicant's monthly expenses equal or exceed monthly income, as determined on form JDF208, the applicant is indigent and eligible for court appointed counsel or guardian *ad litem* representation.

In cases where the criteria above are not met but extraordinary circumstances exist, the court may find the applicant indigent. In such cases, the court shall enter a written order setting forth the reasons for the finding of indigency.

INCOME ELIGIBILITY GUIDELINES (amended January 2013)				
Family Size	**Monthly Income***	**Monthly Income plus 25%**	**Yearly Income***	**Yearly Income plus 25%**
1	$1,197	$1,496	$14,363	$17,953
2	$1,616	$2,020	$19,388	$24,234
3	$2,034	$2,543	$24,413	$30,516
4	$2,453	$3,066	$29,438	$36,797
5	$2,872	$3,590	$34,463	$43,078
6	$3,291	$4,113	$39,488	$49,359
7	$3,709	$4,637	$44,513	$55,641
8	$4,128	$5,160	$49,538	$61,922
* 125% of poverty level as determined by the Department of Health and Human Services				
For family units with more than eight members, add $335 per month to "monthly income" or 4,020 per year to "yearly income" for each additional family member.				
Source: FEDERAL REGISTER (78FR5182, 01/24/2013)				

❑County Court ❑District Court ❑Denver Juvenile Court _____ County, Colorado Court Address: Plaintiff/Petitioner: v. Defendant/Respondent:	▲ ▲ ~~COURT USE ONLY~~ Case Number: Division: Courtroom:

ORDER APPOINTING COUNSEL, GUARDIAN AD LITEM, CHILD AND FAMILY INVESTIGATOR, CHILD LEGAL REPRESENTATIVE, OR ATTORNEY REPRESENTATIVE UNDER TITLE 12, 14, 19, OR 22

1. Upon ❑Court's own motion; ❑stipulation of the parties; ❑motion of _____; (appointee name) _____ (address) _____ (phone)_____ (SSN)/Atty. Reg. # _____ is appointed as ❑Counsel, ❑Guardian ad Litem/GAL, ❑Child & Family Investigator, or ❑Child's Legal Representative for the following ❑child(ren) number of children represented _____ or ❑adult(s):_____(address)_____(phone) _____.

2. This Order is entered pursuant to Section: Appointment is in the best interest of a minor (under the age of 18). **OCR Paid Appointment**
   - ❑ 19-1-111(1) and 19-3-203(1) appointment of a GAL for a child in a dependency and neglect case.
   - ❑ 19-1-105(2) counsel for child in a dependency and neglect case in addition to the GAL.
   - ❑ 19-1-111(2)(a)(I, II, III) appointment of a GAL for a child in a delinquency case.
   - ❑ 19-1-105(2) appointment of GAL for a child in a truancy matter under Title 22.
   - ❑ 19-2-517 appointment of a GAL for a juvenile charged as an adult in a criminal case.
   - ❑ 19-4-110 appointment of a GAL in a paternity action as to child support and the establishment of a parent-child relation and the Court finds one or more of the parties responsible indigent.
   - ❑ 14-10-116 appointment of an attorney to serve as the Legal Representative of the Child in a domestic relations matter and the Court finds the responsible party indigent OR 14-10-116.5 appointment of an attorney Child & Family Investigator to serve the Court in a domestic relations matter that involves allocation of parental responsibilities and the responsible party is indigent (appoint to the child).
   - ❑ Other (e.g. civil matters best interest for a minor. Refer to CJD 04-06 for appointments where determination of indigency are required.) _____.

   This Order is entered pursuant to Section: **Judicial Paid Appointment**
   - ❑ 19-1-111(2)(c) appointment of a GAL for a parent, guardian, legal custodian, custodian, stepparent, or spousal equivalent in dependency or neglect proceedings for an adult (age 18 or older).
   - ❑ 19-3-202(1) appointment of counsel for a Respondent parent in a dependency and neglect action.
   - ❑ 14-10-116.5 appointment of a non-attorney Child & Family Investigator to serve the Court in a domestic relations matter that involves allocation of parental responsibilities and the responsible party is indigent (appoint to the child).
   - ❑ 19-1-105(2) appointment of counsel for a child and/or other parties in a truancy matter under Title 22.
   - ❑ Appointment of a GAL for an indigent impaired adult in a civil case.
   - ❑ 12-37.5-107(2) The Court, at its discretion may appoint an attorney if said minor is not represented by counsel - judicial bypass – this case is suppressed and confidential.
   - ❑ Other (specify) _____.

3. The appointee is directed to:
   - ❑ Represent the best interests of the child(ren).
   - ❑ Advise the child who has been deemed the holder of the patient-therapist privilege regarding the exercise of that privilege.
   - ❑ Provide legal representation to the child who has been deemed the holder of the patient-therapist privilege regarding the exercise of the privilege
   - ❑ Provide legal representation to the child regarding the entry of valid court orders and/or pending contempt proceedings.
   - ❑ Other (specify): _____
   - ❑ Provide legal representation as counsel for the party.
   - ❑ Investigate, report upon, and make recommendations to the Court concerning:
     ❑parental responsibility ❑parenting time ❑potential dependency and neglect issues ❑allegations of abuse ❑placement ❑conflicts between the parties ❑property division ❑visitation with other parties ❑sentencing recommendations ❑Other (specify) _____

4. The appointee shall be compensated by the:
   - ❑ Responsible party(ies) as directed by the Court: (_____% paid by Petitioner; _____% paid by Co-Petitioner/Respondent. ❑ State of Colorado because both parties are indigent (JDF 208 completed).
   - ❑ Other (explain) _____

5. Dependency and neglect cases appointment of counsel only. The following have occurred or are applicable to this appointment made:
   - ❑ after treatment/permanency plan.
   - ❑ after a change of venue.
   - ❑ after a motion to terminate parental rights has been filed.

6. The appointee shall have access, without further release or liability, to all relevant information regarding the child(ren) or adults to whom he/she has been appointed subject to applicable law, including, but not limited to, psychiatric, psychological, drug, alcohol, medical, law enforcement, school, social services, and financial reports, evaluations and other information.

NEXT APPEARANCE DATE IS _____ (DATE), AT _____ (TIME), IN _____ (DIVISION).

Date: _____

_____
❑Judge ❑Magistrate

❑County Court ❑District Court ❑Denver Probate Court _____ County, Colorado Court Address: Plaintiff/Petitioner: v. Defendant/Respondent:	▲ *COURT USE ONLY* ▲ Case Number: Division: Courtroom:

ORDER APPOINTING COUNSEL, GUARDIAN *AD LITEM*, OR COURT VISITOR UNDER TITLE 15 OR 27

1. Upon ❑Court's own motion; ❑stipulation of the parties; ❑motion of _____; (appointee name) _____ (address) _____ (phone) _____ (bar #:/SSN:) _____ is appointed as ❑Counsel, ❑Guardian *ad litem*, or ❑Court Visitor for the following ❑child or ❑adult:_____ (address)_____ (phone) _____.

2. **This Order is entered pursuant to Section:**
❑27-65-103(3)(7) Appointment of GAL for minor under 15 who is a ward of DHS or any minor objecting to hospitalization.
❑27-65-127(4) Appointment of counsel for a respondent in an imposition of legal disability - deprivation of legal right or restoration of such right.
❑27-65-106(10) Appointment of counsel in the event of involuntary admittance to 72 hour treatment/evaluation facility.
❑27-65-107(5) Appointment of counsel in short term treatment certification proceedings.
❑27-65-103(7) Appointment of counsel for minor.
❑27-10.5-110(5)(a) Appointment of counsel for respondent with an imposition of legal disability – removal of legal right.
❑27-65-111(5) Appointment of counsel for respondent who refuses medication.
❑27-81-112(4) Appointment of a GAL in involuntary commitment of alcoholic proceedings.
❑27-81-112(12) Appointment of counsel in involuntary commitment of alcoholic proceedings.
❑27-81-111(6) Appointment of counsel in emergency commitment of a person intoxicated or incapacitated by alcohol.
❑27-82-107(6) Appointment of counsel in emergency commitment of a person under the influence of/incapacitated by drugs.
❑27-82-108(4) Appointment of a GAL in involuntary commitment of drug abuser proceedings.
❑27-82-108(12) Appointment of counsel in involuntary commitment of drug abuser proceedings.
❑15-10-403(5)Appointment of a GAL to represent the interest of a minor or unborn in a trust, estate, or judicially supervised settlement matter.
❑15-10-403(5) Appointment of a GAL to represent the interest of an incapacitated or unascertained person in a trust, estate, or judicially supervised settlement matter.
❑15-14-115 Appointment of a GAL in a probate matter (appointment for a minor – indigency required.)
❑15-14-305(1) or 15-14-406(1) appointment of a court visitor in a probate matter (appointment for a minor – indigency required.)
❑15-14-305(2); 15-14-205(3); 15-14-405(1); 15-14-406(2); or 15-14-312 appointment of counsel in a probate matter (appointment for a minor – indigency required.)
❑other (specify) _____.

3. **The appointee is directed and empowered:**
❑To represent the interests of the minor party – GAL. (OCR appointment)
❑To represent the interests of the party.
❑To investigate, report upon and make recommendations to the Court concerning:
❑parental responsibility ❑parenting time ❑potential dependency and neglect issues
❑allegations of abuse ❑client financial status ❑property division
❑Other (specify) _____

4. **The appointee shall be compensated by:**
❑The captioned estate.
❑The responsible party(ies) as directed by the Court: _____
❑The State of Colorado because all responsible parties are indigent (JDF 208 completed).
❑The State of Colorado because the parents/guardians refuse to pay for good cause: _____
❑The State of Colorado because indigency cannot be determined (Title 27 only).
❑Other (explain) _____.

5. **The appointee shall have access, without further release or liability, to all relevant information regarding the child(ren) or adult, including, but not limited to, psychiatric, psychological, drug, alcohol, medical, law enforcement, school, social services, and financial reports, evaluations and other information.**

NEXT APPEARANCE DATE IS _____ (DATE), AT _____ (TIME), IN _____ (DIVISION).

Dated: _____

BY THE COURT

_____
❑Judge ❑Magistrate

Guidelines for Itemized, Hourly Payment: Judicial Paid Appointments Only
Court-Appointed Counsel, Guardians *ad litem* (for adults),
Non-Attorney Child and Family Investigators and Court Visitors

A) Claims for payment on an hourly basis by shall be submitted using the Judicial Department's online CAC System (if the appointee is authorized to use this system) or submitted to the appointing court on form JDF207 ("Colorado Judicial Department Request and Authorization For Payment Of Fees") including attachments, and shall be in compliance with these guidelines. For appellate counsel only, claims for payment shall be submitted directly to the Court of Appeals. The claims and attachments shall conform to the Procedures for Payment of Fees and Expenses (Attachment E, this CJD). In accordance with this CJD and all other applicable Department policies and procedures, and upon review and approval by the appointing court, the request for payment will be sent to the State Court Administrator's Office (SCAO) for processing. The SCAO may review, verify, and revise, when appropriate, such authorized requests for payment.

B) A schedule of maximum hourly rates for appointees is established by the Supreme Court in this Chief Justice Directive, section IV.C., and/or by Chief Justice Order. No payment shall be authorized for hourly rates in excess of the Chief Justice Directive or Order. The maximum total fee that may be paid to an appointee for representation on a case is also established in this Chief Justice Directive, section IV.D. This maximum includes appointee fees (both contract flat fees plus hourly, as applicable), allowable incidental expenses, paralegal, legal assistant, and law clerk time.

1) If there are unusual circumstances involved in the case and the appointee determines that additional work must be completed, which will create fee charges over the maximum allowed, pre-approval for fees in excess is to be obtained by submitting a Motion to Exceed the Maximum to the presiding judge/magistrate. (While there may be exceptions in which pre-approval is not possible before additional work is performed, seeking pre-approval should be the norm.) If satisfied that the excess fees are warranted and necessary, the presiding judge/magistrate should approve such motion. The District Administrator (or designee) should deny further payment unless accompanied by a Motion to Exceed the Maximum and an order granting the Motion by the presiding judge or magistrate.

2) The Motion to Exceed the Maximum must cite the specific special and extraordinary circumstances that justify fees in excess. The judge or magistrate, in his or her discretion, may grant approval with an Order for Fees in Excess which provides a maximum up to 150% of the established maximum as outlined in section IV.D. of this Chief Justice Directive. A subsequent Motion to Exceed Maximum must be submitted for the same appointment if total fees are expected to further exceed the maximum established by the judge or magistrate.

C) **All court appointees and investigators must submit their JDF207 or invoice using CACS, as applicable, to the court <u>within six months of the earliest date of billed activity</u>.** For example, for an invoice containing work performed from July 1, 2010 through December 14, 2010, the *court must receive the bill by December 31, 2010.* <u>Any court appointee or investigator desiring to request an exception to the 6-month rule based on unusual circumstances shall make such request in writing to the Director of Financial Services at the SCAO, or the Director's designee, whose decision concerning payment shall be final.</u> Before an exception will be considered, the request must detail the extraordinary circumstances concerning a bill or portion of a bill wherein the activity does not fall within the six-month rule.

D) The District Administrator or his/her designee will carefully review all hourly payment requests submitted for approval. To assist in this review, attorneys, other appointees and investigators must submit a detailed itemization of in-court and out-of-court hours with each request for payment as outlined in Procedures for Payment of Fees and Expenses, Attachment E. Authorization for payment is not automatic, and the District Administrator (or designee) must be satisfied that the number of hours billed and expenses charged are appropriate and necessary for the complexity of the issues involved. If there are questions concerning the reasonableness of the bill, the appropriate judge or magistrate will be consulted. If reimbursement to the state is to be ordered, the District Administrator or his/her designee shall forward the JDF207 to the appropriate judge for an Order for Reimbursement.

E) Requests by appointees for reimbursement of expenses must include itemized statements and accompany the request for payment. In addition, such requests must comply with Maximum Hourly Rates/Maximum Fees Per Appointment as set forth in sections IV.C. and IV.D. of this Chief Justice Directive. When practical, a paralegal or legal assistant should be used for tasks that require legal expertise but can be done more cost-effectively by an assistant, such as drafting court motions or performing some legal research. The billable hourly rate for a paralegal or legal assistant time is found in section IV. C. The Judicial Department does not pay for the time of administrative support staff. Therefore, charges for time spent on administrative activities, such as setting up files, typing, copying discovery or other items, faxing documents, making deliveries, preparing payment requests, , and mailing letters are not reimbursable costs. Attorneys are expected to have sufficient administrative support for these activities.

1. Certain court costs are paid individually by the appointing court (not SCAO) with prior court approval. The appointing court pays court costs incurred by counsel. Counsel, other appointees, or investigators should submit the bills for items listed below directly to the local court and should not include these costs for reimbursement on the Request for Payment form (JDF207).

   Costs Paid Locally by the Individual Court
   - Cost of subpoenas;
   - Fees and expenses of witnesses;
   - Service of process;
   - Language interpreters;
   - Mental Health examinations/evaluations;
   - Transcripts;
   - Discovery Costs (including: Lexis Nexis research charges, medical records, etc.)

2. Court-appointed counsel and investigators may request reimbursement for certain reasonable out-of-pocket expenses that are incurred on behalf of their clients. The expenses below may be claimed on the Request for Payment form (JDF207) or using CACS.

   Other Allowable Expenses
   - Copy charges at the rate of $0.10 per page (specify the number of copies made);
   - Mileage at the rate defined by §24-9-104 C.R.S. (the actual number of miles must be specified for each trip);
   - Long-distance telephone calls at cost (if total billing exceeds $50, it must include a copy of the telephone bill with the following information highlighted date, phone number, and charges);

Other Allowable Expenses, cont.

- Postage at cost (regular 1st class mail charges);
- Reimbursement for delivery and express mail charges are only reimbursable for a case on appeal. A receipt or invoice for these charges must be attached to the order for payment;
- Requests for payment of overnight travel or out-of-state travel require prior authorization by the court and must be in accordance with state travel regulations as described in the Travel section of the Colorado Judicial Department's Fiscal Policies and Procedures manual. Out-of-state travel expenses incurred by the appointee shall be submitted to the court using form JDF207 with the appropriate copies of travel receipts included.

3. The following items are not authorized for payment or reimbursement.

Non-Allowable Expenses

- Phone calls when no contact is made (i.e., no answer, client not available or message left to call back, etc.);
- Fax charges;
- Parking Fees;
- Items purchased for indigent (or other) persons represented which includes meals, books, clothing, and other personal items;
- Administrative activities (as previously discussed);
- Electronic filing fees for which state funded counsel appointments are exempt;
- Any other cost or expense not authorized under Colorado law or Chief Justice Directive for payment by the state or reimbursement to counsel or other party.

F) In any case in which a payment has been made to the attorney by a party who is later determined to be indigent, the state will reimburse the attorney for the total number of hours expended on the case, less any payments received from the party for fees incurred prior to the determination of indigence. The payment calculation is at the allowed Chief Justice Directive and/or Chief Justice Order hourly rate applicable to when the activity occurred.

G) Attorneys shall maintain records of all work performed relating to court appointments and make all such records available to the Judicial Department for inspection, audit, and evaluation in such form and manner as the Department in its discretion may require, subject to attorney/client privilege.

H) The Judicial Department will review and respond promptly to any question or dispute concerning a bill received, submitted, or paid. However, due to research time and record retention limitations, there is a time restriction of two years for billing questions and disputes. The two-year restriction starts from the activity date (or date of service) that is in question. For prompt resolution concerning questions or disputes concerning hourly or contract payment requests, all questions and disputes must be directed to the local court or State Court Administrator's Office immediately when issues arise.

Judicial Paid Appointments
* Procedures for Payment of Fees and Expenses *

GENERAL INFORMATION

These procedures apply to requests for payment of fees and expenses for court-appointed counsel, other appointees, and investigators paid by the Judicial Department on an hourly basis. Payment requests shall be submitted via the Department's online CAC System (CACS) in accordance with the policies and procedures set forth by the State Court Administrator's Office or, if an exception has been granted pursuant to Section IV.A.3. of this Chief Justice Directive, by using the standardized "Colorado Judicial Department Request and Authorization For Payment of Fees" form JDF207 (Judicial Department Form). Completion, including attachments, should adhere to the procedures described below. Requests for payment that do not include the necessary information will be returned to the appointee or to the court for completion or correction.

All appointees, both hourly and contract, who have not yet received payment from the Judicial Department must submit a completed W-9 form and, if applicable, an "Authorization to Pay a Law Firm" form before a payment can be issued. Payments are issued/submitted to whomever the attorney has authorized and approved on W-9 and "Authorization to Pay a Law Firm" forms. Therefore, if an attorney is no longer with the law firm indicated on a prior W-9 and/or Authorization to pay a Law Firm, he/she must complete a new form(s) and submit them to the Financial Services Division at SCAO. The forms are available from the court or from the Financial Services Division by calling (303) 837-3639.

To change only the mailing address, send the address change to the Colorado Judicial Department, Financial Services Division, 101 W. Colfax, Suite 500, Denver, CO 80202, or call for e-mail instructions.

Billing for Representation of Client with Multiple Cases: When billing for multiple cases in representation of the same client (i.e., companion cases), the appointee should work with the Financial Services Division at the State Court Administrator's Office to ensure the appointments/cases are designated as "concurrent" for billing purposes. Appointees must use the "Concurrent Appointment Notification" form, which is available from the Financial Services Division upon request. This applies to situations in which activity occurs simultaneously in the representation of the party across the multiple cases (example: the appointee attends a single court hearing during which more than one of the client's cases is discussed) and allows for the activity to be billed once via a "master" case. Cases in which the appointee's activity does not overlap multiple cases should not be billed concurrently, and should instead be billed by submitting separate invoices for each respective case.

When an attorney is appointed to continue on a case for the purposes of appeal, payment shall be on an hourly basis even if the original appointment was on a contract, flat fee basis.

A. PROCEDURES FOR BILLING

1. Detail of Itemized Billing

Time sheets must be attached to the JDF207 to support the summarized hours billed. (If CACS online billing is used, the detail is entered in this system.) Time must be described in sufficient detail to justify the amount of time spent on the activity. Time reported must include all time spent between the beginning and ending dates of the billing and must be in chronological order. Time sheets must be legible – preferably typed. Expenses must be described. A sample itemization is shown on the next page.

Rates may vary pursuant to Chief Justice Directive or Order. The appointee should contact the local district court, State Court Administrator's Office or visit the web site at www.courts.state.co.us if there is a question concerning the current authorized rates.

a. The billing detail and itemization needs to include date, distinguish between out-of-court and in-court time, and a description of service performed. Time must be billed in ***tenths*** of an hour using the decimal system. One-tenth of an hour is equal to six (6) minutes. For example, 12 minutes is charged as 0.2 hours.

b. Mileage itemization must include the date of the trip, the purpose of the trip, and the number of miles traveled for each trip.

2. Other Attachments

a. Investigators must include the order of appointment appointing the attorney for whom the investigator is working, the court's order authorizing an investigator, and the amount of expenses the investigator may incur.

b. If the total fee request (including past payments and the current invoice) exceeds the maximum fee allowed by this Directive, a copy of the court's order authorizing fees to exceed of the maximum must be submitted. Submitting this copy once is sufficient.

c. If total expenses exceed $50, all receipts or invoices for those expenses must be submitted.

d. All receipts for any expenses outside of the guidelines and an explanation for the additional costs must be submitted.

John Sample, Attorney at Law

Date	Activity	In-court	Out-of-court	Paralegal
05/06/10	Court – temp. protection custody hearing	0.4		
05/06/10	Conf with client to discuss hearing		1.1	
06/05/10	Review social services report		0.5	
06/09/10	Court appearance, review hearing	0.3		
06/10/10	Meet with client to discuss permanency plan		1.0	
06/11/10	Prepare motion to reconsider placement			0.2
08/07/10	Travel to Canon City Prison (57 miles)		1.4	
08/07/10	Conf. with client and Social Services		1.0	
08/07/10	Prepare motion for placement			0.2
08/14/10	Hearing concerning motion on placement	0.3		
Dates of service 05/06/10 – 08/14/10	Total hours	1.0	5.0	0.4

SUMMARY OF FEES	**Activity:**	
	6.0 hours @ $65 per hour	$390.00
	0.4 hours @ $25 per hour	$10.00
	TOTAL FEES	**$400.00**
TOTAL MILEAGE	57 miles @ $0.45 per mile/(or rate defined by §24-9-104 C.R.S.)	**$25.65**
OTHER EXPENSES	Copies: Social Services report = 12 pgs @ $0.10	$1.20
	Postage	$0.44
	TOTAL OTHER EXPENSES	**1.64**
	TOTAL BILLING	**$427.29**

COMPLETION OF THE JDF207 (Hourly Billing if not billing online)

Completion of the JDF207 form is required by the Judicial Department for payment of court appointees appointed on an hourly basis unless the appointee has been authorized to invoice using CACS (online system). The appointee should keep a copy and submit the original plus one copy. The form is in triplicate and includes copies for the appointee, the court file, and the State Court Administrator's Office (SCAO). All applicable sections of the form should be completed as indicated in the instructions. Attach all required documents before submitting to the local court. All incomplete Requests for Payment will be returned to the appointee for correction(s).

Section I.
Enter the case number of the charges being billed. When billing for multiple cases in representation of the same client (i.e., companion cases), enter all applicable case numbers. If the bill is for appellate charges, include the appeal case number and the original case number being appealed.

Include the name(s) and number of persons represented, the name of the case, applicable county, name of appointing judge/magistrate and current judge/magistrate. Indicate if the case jurisdiction is district or county.

Section II.
Enter all applicable appointee information, attorney registration number, name, complete address, phone, fax, e-mail. If the address has changed, check new address box. For more information concerning changes, review the General Information section in this attachment.

The Social Security Number or Tax Id Number must be included on each JDF207 (for more information concerning authorized payee changes, review the General Information section in this attachment).

Indicate the appointment date, if you are an original or substitute appointee, if the case has or has not gone to trial, if the case was originally under contract. If originally under contract, explain why an hourly bill is being submitted and the date circumstances changed resulting in hourly billing.

Section III.
Indicate the type of representation provided.

Section IV.
Indicate the authority/statute title allowing for the appointment. This is indicated on the original appointment form/order.

Section V.
The indigency status of the person represented must be noted. If the person is found indigent, use the date of determination. If the person is not indigent, indicate which statement is applicable to the party represented and if reimbursement is to be ordered by the presiding judge. This information is usually included in the order of appointment or may be found in the application for court-appointed counsel (form JDF208) or another affidavit of indigence, as requested by the court.

Section VI.
Under this section all charges are to be summarized.

For the activity *from date*, enter the first chronological date of activity billed from the itemized detail document. For the activity *to date*, enter the last chronological date in which activity occurred as itemized in the detail document. Group the *start* and *to date* for activities in which the effective date of the maximum rates as set by Chief Justice Directive or Chief Justice Order are the same.

Instructions for summarizing attorney hours and fees are located on the reverse side of the Request and Authorization for Payment of Fees form (JDF207) #5.

For non-attorney billing activity, summarize all non-attorney hours by category. Next, apply the maximum rate as set by Chief Justice Directive or Chief Justice Order and enter the total charge

requested in the right column. Summarize all expenses by type, apply the correlating rates and/or receipts and enter the total charge per category. Charges must correspond to attached receipts.

Total all charges and calculate total amount billed.

Include all prior amounts invoiced for the appointment in the "Total Amount Previously billed" line, (excluding the current request).

Determine the cumulative total of fees charged by appointee for the case by adding the "Total Amount Previously billed" plus the current request amount. If the cumulative total is over the authorized maximum, check the indicator box "Exceeds allowed maximum". Include the Motion to Exceed Maximum and the approved Order to Exceed Maximum (if possible, this should be judge/magistrate pre-approved and not requested after services are performed).

Appointee signature and date are required.

If this is the final bill, check the "Final Bill" box.

Practice Guidelines for Respondent Parents' Counsel in Dependency and Neglect Cases

Preface

In order to ensure quality representation for all litigants, the Colorado Supreme Court's Respondent Parents' Counsel Task Force developed practice guidelines for respondent parents' counsel in dependency and neglect cases. These practice guidelines are based in part on the American Bar Association Standards for Respondent Parent Representation that were approved in August 2006.

There are nine practice guidelines that were developed through a collaborative process that involved Colorado judges and magistrates, respondents' counsel representing parents in dependency and neglect cases, City and County Attorneys, and Guardians ad Litem for children and parents. The comments set forth with each guideline explain and illustrate the meaning and purpose of the guideline and are intended as a guide to its interpretation.

These guidelines are intended to assist in ensuring quality representation for respondent parents, ensuring due process of law, and affording parents the best opportunity to maintain familial relationships successfully. All attorneys appointed as respondent parents' counsel are subject to the rules and standards of the legal profession, including the additional responsibilities set forth by Colorado Rule of Professional Conduct 1.14. Violation of a guideline should not in and of itself give rise to a cause of action nor should it create any presumption that a legal duty has been breached or that a professional ethical violation has occurred. These guidelines are intended to promote quality representation and uniformity of practice among the attorneys appointed to defend a parent's fundamental liberty interest in the care and custody of his or her child.

One
TRAINING

An attorney appointed as respondent parents' counsel in a dependency or neglect case (hereinafter "RPC") shall possess the knowledge, expertise, and training necessary to perform the court appointment. RPC shall be familiar with the Colorado Children's Code, basic agency practices, procedural rules of the court, the applicable Chief Justice Directives, local custom or practice, and relevant state and federal law. In addition, RPC shall obtain 10 hours of the required continuing legal education courses or any other modified training requirements established by subsequent Chief Justice Directive practice standards, rule or statute, which are relevant to the appointment and that enhance the attorney's knowledge of the issues in best interest representation. These requirements should be met prior to attorney's first appointment and per legal education reporting period. When submitting an application to provide attorney services or to renew a contract, the attorney shall provide the district of appointment with proof of compliance with this requirement.

Commentary: *Dependency and neglect cases are both factually and legally complicated. Not only do these cases involve difficult issues related to litigation, they also involve numerous other systems that must be navigated by parents whose families are involved in the child welfare system.*

RPC who have a basic knowledge and understanding of the practices of the social service agencies with whom their clients must deal may facilitate earlier, more appropriate services by extra-judicial advocacy on behalf of their client with the agency.

RPC must be able to seek help from the court when necessary. This requires a working knowledge of statutory remedies, rules of procedure, applicable Chief Justice Directives (including CJD 96-08 and 98-02), and local court practices. In addition, if the child/ren is eligible for membership in an Indian Nation, the family and child/ren have additional legal rights under the Indian Child Welfare Act.

Counsel should attend court- or DHS-sponsored trainings, continuing legal education seminars, or other specialized programs to assist them in developing the necessary expertise in dependency practice. These trainings should include multidisciplinary trainings that educate the attorney on, among other things, substance abuse evaluations, mental health or psychological evaluations, visitation assessments, safety assessments, and other family reunification services.

Two
REPRESENTATION

RPC shall diligently advocate for the client at all stages of the proceedings. RPC shall be adequately prepared for proceedings. A RPC shall make reasonable efforts to expedite litigation consistent with the interests of his or her client. RPC must be aware of the impact that his or her client's dependency and neglect case may have on other legal proceedings. RPC shall advise the parents of his or her rights to information and decision making while the child/ren is in out-of-home placement.

Commentary: *RPC should personally attend all court hearings and provide accurate and current information directly to the court. When counsel is unavailable for a court appearance, substitute counsel should be obtained. Participating in pretrial proceedings may improve case resolution for the parent either to help the client obtain early access to services or to deter the agency from filing a petition or removing the client's child if a petition is filed. The attorney should discuss available services with the client. RPC must balance the need for early treatment for the client against the potential waiver of important rights at a very early stage of the proceedings.*

Delaying a case often increases the time a family is separated, and can reduce the likelihood of reunification. Additionally, continuances may actually prejudice a client's rights, particularly in expedited permanency planning cases, where the Adoption and Safe Families Act timelines continue to run regardless of any delay in the proceedings. If a continuance is imperative to protect the client's interests, RPC should request the continuance in writing, as far as possible in advance of the hearing, and should request

the shortest delay possible, consistent with the client's interests. If there is a delay in either the provision of services to the family or the procedural status of the case, RPC should take care to request the Court make "good cause" findings for the extension of Expedited Permanency Planning guidelines.

Three
COMMUNICATION

RPC shall meet or otherwise communicate with the client on a regular basis to the greatest extent possible. Communication with imprisoned clients raises special challenges, and the RPC representing an incarcerated respondent parent shall take particular care to ensure that the incarcerated parent is kept informed of the status of the case.

Counsel shall also stay in communication with other professionals involved in the case or with the client.

Commentary: *Representing parents in dependency and neglect cases presents unique challenges for an attorney. Parents are frequently unemployed, homeless, incarcerated, or without telephones. Financial circumstances, substance abuse, or unresolved mental health issues may cause parents to have extremely unstable living arrangements that make it difficult and sometimes impossible, despite counsel's best efforts, to communicate with the client.*

Establishing a system for communication is one method of making certain that there is ongoing contact between RPC and the client. RPC may wish to have clients acknowledge receipt of an advisement of their responsibility to stay in communication with RPC. When possible, meeting with the client well in advance of court hearings outside of the courthouse will assist RPC in effectively representing the client. It is extremely important that the client understands each stage of the case and the consequences that may flow from non-compliance with court orders. RPC should make sure that his or her client understands any court orders.

Incarcerated parents are in an especially vulnerable position regarding their parental rights. Treatment plans adopted to remediate the difficulties that bring families before the court often cannot be realistically implemented due to the parental incarceration. This problem is exacerbated by the difficulty in communicating with someone in jail or prison. RPC representing an incarcerated parent must take communication limitations into consideration in case planning. There may, for example, be long time lags between a message and a response.

The parent's attorney should communicate with attorneys for the other parties, court appointed special advocates (CASAs) or guardians ad litem (GALs). Similarly, the parent's attorney should communicate with the caseworker and service providers to learn about the client's progress and their views of the case, as appropriate. The parent's attorney should have open lines of communication with the attorney(s) representing the client in related matters such as any criminal, protection from abuse,

private custody, or administrative proceedings to ensure that probation orders, protection from abuse orders, private custody orders, and administrative determinations do not conflict with the client's goals in the dependency and neglect case.

Four
DOCUMENTATION

Unless prohibited by order of the court or confidentiality rules or statutes, RPC shall access copies of pleadings, court reports, court orders, the child welfare agency case file, and all other documents that are necessary to represent the client. When possible, copies of treatment plans and court orders shall be provided and explained to the client.

Commentary: *Miscommunication or misunderstanding is less likely when the client possesses information in written form. Having information in writing also allows a client to review the information with other professionals involved in his or her case.*
In order for a parent to make informed decisions regarding the course of the litigation, including whether he or she is in compliance with a court ordered treatment plan, the client should also have access to all of the necessary and available documents in advance of each hearing.

Five
INVESTIGATION

RPC shall conduct an independent investigation of facts at every stage of the proceedings through a review of records and interviews of witnesses or professionals, as dictated by the needs of the case.

Commentary: *The parent's attorney must take all reasonable steps to prepare an independent case theory, and a thorough investigation is an essential element of that preparation. Consistent with the client's interests and goals, and as permitted by agreement or court order, RPC should contact service providers who work with the client, relatives who can discuss the parent's care of the child, the child's teacher, caregivers, or other people who can develop facts helpful to the client, or to clarify information relevant to the case. Pending availability of funding for investigators, the attorney should petition the court for funds to hire an investigator.*

Six
AGENCY ADVOCACY

RPC shall, consistent with the interests of their clients, engage in case management planning, advocate for appropriate family or individual services, and, where appropriate, explore placements of the child/ren with kin when return to the parent may not be a viable option.

Commentary: *Case management planning is critical to the parents' successful resolution of a dependency and neglect case. Making certain that the treatment plan for the parents and child/ren is client-specific, reasonable, practical, culturally appropriate and that it adequately addresses the issues that resulted in the case being filed is a crucial part of RPC's representation.*

RPC must not only have an understanding of the issues at the initiation of the case, but also of the issues that are disclosed as the case evolves. Dependency and neglect cases are dynamic by their very nature. This often requires adjustments of the services provided to the family during the course of the litigation. Effective advocacy for appropriate adjustments requires RPC to advocate informally with the social services agency and, when necessary, formally before the court.

If parental incarceration or other circumstances justify a finding that no appropriate treatment plan can be identified to reunify the parent and child/ren, RPC may serve the client's interest by advocating for an outcome that preserves the familial relationship. To this end, RPC should counsel clients to share information about potential kinship placement and extended family members as mandated by ICWA or other requirement. RPC should advocate for concurrent planning when it allows an opportunity for a more positive result for the client.

Seven
CLIENT LOCATION

RPC shall make good faith efforts to locate his or her client.

Commentary: *Upon accepting an appointment, RPC should advise the client of his or her responsibility to stay in contact with the attorney. In order to protect the due process rights and liberty interests of his or her client, RPC representing a missing parent should make good faith efforts to locate that person. Good faith efforts include leaving contact information with the client's family, the caseworker, or service providers, or sending a letter to the last known address of the parent, address correction requested. If the attorney is unable to find and communicate with the client after initial consultation, the attorney should assess what action would best serve the client's interests. This decision must be made on a case-by-case basis. In some cases, the attorney may decide to take a position consistent with the client's last clearly articulated position. In other cases the attorney may decline to participate in the court proceedings in the absence of the client because that may better protect the client's right to vacate orders made in the client's absence. After a prolonged period without contact with the client, the attorney should consider moving to withdraw from representation.*

Eight
CULTURAL AWARENESS

RPC shall be aware of the client's culture and how that culture may impact the parents' participation in the case.

Commentary: *A significant number of respondent parents who enter the child welfare system are from cultures other than the community's dominant culture. There may be language barriers or cultural considerations that affect the client's ability to understand what the court is requiring.*

Unless RPC is respectful of the client's culture and sensitive to the impact of these considerations upon the client's participation in the case, the attorney cannot be sure that the client understands the nature of the proceedings or what is required of the client or the possible consequences for failing to comply with court-mandated treatment plans.

Nine
APPEALS

RPC shall make certain that appellate options, timelines, and requirements are fully explained to parents whose rights have been affected by orders of the court. RPC handling the appeal shall keep the client informed as to the status of any appeal that is filed.

Commentary: *Appeals in dependency and neglect proceedings are now expedited pursuant to Rule 3.4 of the Colorado Appellate Rules. RPC must discuss the specific requirements of an appeal with the client at the earliest practicable time so that the appellate timelines do not lapse before the client can make an informed decision about whether to seek appellate review. RPC must also be familiar with local practices that may affect the ability of counsel to perfect the appellate record. Specifically, RPC must be familiar with the local compliance plan adopted by each jurisdiction pursuant to Chief Justice Directive 05-03 for the transcription of the record for appeal.*

Attachment D

Office of the Child's Representative
Truancy data
FY08 - FY13
Number of Appointments and Expenditures by Jurisdiction

Prepared by: Elisabeth Dickinson, Controller
Date: 23-Aug-13

Jurisdiction	FY13	FY12	FY11	FY10	FY09	FY08
01 - Jefferson/Gilpin	19	12	2	3	4	0
02 - Denver Juvenile	84	21	49	91	152	177
04 - El Paso/Teller	105	68	82	54	16	3
06 - La Plata	2	1	1	1	0	0
07 - Montrose/San Miguel	0	0	1	0	0	0
08 - Larimer	2	3	2	14	0	2
09 - Garfield/Rio Blano	0	0	0	0	1	0
10 - Pueblo	1	1	1	0	7	13
11 - Fremont/Park	1	1	2	1	0	2
12 - Alamosa/Rio Grande	0	0	0	0	1	0
13 - Morgan/Logan	7	2	7	6	10	13
14-Moffat	0	2	1	0	0	0
15 - Prowers	4	8	7	14	0	0
16 - Bent/Otero	63	34	28	24	20	7
17 - Adams/Broomfield	92	41	37	63	36	14
18 - Arapahoe/Douglas	229	221	163	98	181	247
19 - Weld	72	7	19	15	15	10
20 - Boulder	16	4	13	22	27	23
22 - Dolores/Montezuma	0	0	1	0	4	4
Total appointments	697	426	416	406	474	515

Jurisdiction	FY13	FY12	FY11	FY10	FY09	FY08
01 - Jefferson/Gilpin	$ 2,458.66	$ 4,749.10	$ 538.85	$ 1,296.02	$ 1,637.47	$ -
02 - Denver Juvenile	$ 34,998.69	$ 8,717.71	$ 8,951.59	$ 31,336.66	$ 54,960.88	$ 55,164.97
04 - El Paso/Teller	$ 30,917.41	$ 10,203.21	$ 31,258.41	$ 31,743.67	$ 14,019.36	$ 355.01
06 - La Plata	$ 1,256.72	$ 989.03	$ 24.05	$ 1,657.90	$ -	$ -
07 - Montrose/San Miguel	$ -	$ -	$ 809.90	$ -	$ -	$ -
08 - Larimer	$ 805.05	$ 2,938.54	$ 1,387.75	$ 5,934.21	$ -	$ 477.00
09 - Garfield/Rio Blano	$ -	$ -	$ -	$ -	$ 560.24	$ -
10 - Pueblo	$ -	$ 429.00	$ 13.00	$ -	$ 4,386.82	$ 6,074.71
11 - Fremont/Park	$ 293.50	$ 55.50	$ 1,062.70	$ 307.80	$ -	$ 361.22
12 - Alamosa/Rio Grande	$ -	$ -		$ -	$ 1,042.53	$ -
13 - Morgan/Logan	$ 3,990.98	$ 975.00	$ 2,352.00	$ 1,470.60	$ 2,535.39	$ 6,500.85
14-Moffat	$ -	$ 312.68	$ 981.50	$ -	$ -	$ -
15 - Prowers	$ 1,365.16	$ 3,836.50	$ 2,165.30	$ 4,147.68	$ -	$ -
16 - Bent/Otero	$ 16,357.25	$ 4,460.65	$ 9,332.05	$ 3,624.62	$ 3,352.47	$ 1,999.80
17 - Adams/Broomfield	$ 22,355.03	$ 12,608.14	$ 10,535.44	$ 17,742.03	$ 13,613.13	$ 3,901.89
18 - Arapahoe/Douglas	$ 74,218.49	$ 77,622.19	$ 74,655.80	$ 63,935.34	$ 101,774.62	$ 79,200.81
19 - Weld	$ 24,152.34	$ 1,676.07	$ 5,246.50	$ 5,825.37	$ 10,686.60	$ 3,745.16
20 - Boulder	$ 6,188.78	$ 1,319.50	$ 5,399.11	$ 8,391.65	$ 12,386.70	$ 11,036.58
22 - Dolores/Montezuma	$ -	$ -	$ 216.45	$ -	$ 963.97	$ 1,037.99
Case management/OCR Cares	$ 984.37	$ 2,450.56	$ -	$ -	$ -	$ -
Total expenses	$ 220,342.43	$ 133,341.38	$ 154,930.40	$ 177,413.55	$ 221,920.18	$ 169,855.99

Jurisdiction	FY13	FY12	FY11	FY10	FY09	FY08
01 - Jefferson/Gilpin	$ 129.40	$ 395.76	$ 269.43	$ 432.01	$ 409.37	$ -
02 - Denver Juvenile	$ 416.65	$ 415.13	$ 182.69	$ 344.36	$ 361.58	$ 311.67
04 - El Paso/Teller	$ 294.45	$ 150.05	$ 381.20	$ 587.85	$ 876.21	$ 118.34
06 - La Plata	$ 628.36	$ 989.03	$ 24.05	$ 1,657.90	$ -	$ -
07 - Montrose/San Miguel	$ -	$ -	$ 809.90	$ -	$ -	$ -
08 - Larimer	$ 402.53	$ 979.51	$ 693.88	$ 423.87	$ -	$ 238.50
09 - Garfield/Rio Blano	$ -	$ -	$ -	$ -	$ 560.24	$ -
10 - Pueblo	$ -	$ 429.00	$ 13.00	$ -	$ 626.69	$ 467.29
11 - Fremont/Park	$ 293.50	$ 55.50	$ 531.35	$ 307.80	$ -	$ 180.61
12 - Alamosa/Rio Grande	$ -	$ -	$ -	$ -	$ 1,042.53	$ -
13 - Morgan/Logan	$ 570.14	$ 487.50	$ 336.00	$ 245.10	$ 253.54	$ 500.07
14-Moffat	$ -	$ 156.34	$ 981.50	$ -	$ -	$ -
15 - Prowers	$ 341.29	$ 479.56	$ 309.33	$ 296.26	$ -	$ -
16 - Bent/Otero	$ 259.64	$ 131.20	$ 333.29	$ 151.03	$ 167.62	$ 285.69
17 - Adams/Broomfield	$ 242.99	$ 307.47	$ 284.74	$ 281.62	$ 378.14	$ 278.71
18 - Arapahoe/Douglas	$ 324.10	$ 351.23	$ 458.01	$ 652.40	$ 562.29	$ 320.65
19 - Weld	$ 335.45	$ 239.44	$ 276.13	$ 388.36	$ 712.44	$ 374.52
20 - Boulder	$ 386.80	$ 329.88	$ 415.32	$ 381.44	$ 458.77	$ 479.85
22 - Dolores/Montezuma	$ -	$ -	$ 216.45	$ -	$ 240.99	$ 259.50
Case management/OCR Cares	N/A	N/A	$ -	$ -	$ -	$ -
Average cost per appt.	$ 316.13	$ 313.01	$ 372.43	$ 436.98	$ 468.19	$ 329.82