

Policy for Dependency and Guardian ad Litem Panel Attorneys

The Law Office of the Hamilton County Public Defender is currently responsible for the appointment of counsel for indigent parties in cases involving abused, neglected and dependent children in Hamilton County Juvenile Court, in accordance with Juv. R 4(A) and ORC 2151.352. The Law Office of the Public Defender currently houses the Guardian ad Litem division, which provides child advocacy services for the youth involved in the same abuse, neglect, and dependency cases, in accordance with ORC 2151.281(I). As a result, counsel for parties as set forth in Juv. R 4(A) and 2151.352 will be provided through a rotation of panel attorneys. These panel attorneys must meet all selection criteria as established by the Law Office of the Hamilton County Public Defender and are subject to removal by the office based upon established removal criteria. All attorneys on the rotation panel must be licensed to practice law in the state of Ohio and remain in good standing with the Ohio Supreme Court. In addition, any disciplinary action leveled against an attorney on the panel must be reported to the Hamilton County Public Defender immediately.

**Section 1: Dependency Panel Minimum Selection
Criteria**

1. Licensure to practice law in the state of Ohio.
2. An attorney in good standing with the Supreme Court of Ohio.
3. An attorney with at least one year of experience in taking dependency cases or an attorney who has received or is willing to receive specific training on issues related to dependency court actions and is willing to be mentored by a more experienced attorney.
4. Any attorney wishing to be on the dependency or guardian ad litem panel must timely complete and submit a registration form to the Law Office of the Hamilton County Public Defender. The Public Defender reserves the right to review the registration materials and select qualified candidates for the panel. Prior to receiving any case assignments through the Law Office of the Hamilton County Public Defender, the attorney must agree to accept the terms and conditions of this policy.

Section 2: Dependency Panel Attorney Removal Criteria

1. Failure to maintain licensure to practice law in the state of Ohio and to remain in good standing with the Supreme Court of Ohio.
2. Failure to report any disciplinary action by a local bar association or the Ohio Supreme Court.
3. Routine failure to respond to messages left by Public Defender staff attempting to assign cases or repeated refusal to accept assignment of cases without a valid reason, such as a conflicting court hearing.
4. Failure to attend scheduled court hearings.
5. Failure to arrive timely for court hearings.
6. Failure to adequately prepare for court hearings.
7. Failure to maintain appropriate contact with clients.
8. Failure to comply with the procedures for panel attorneys as established in this policy.
9. Failure to properly fill out and submit vouchers in a timely manner.
10. Any other reason deemed proper by the Hamilton County Public Defender.

Should a panel attorney be removed for any of the aforementioned reasons, they may reapply for consideration to be included on the panel during the next scheduled enrollment period.

Section 3: Qualification

Qualifying, or determining the eligibility of a party on an abuse, neglect or dependency case for public defender representation, is the sole responsibility of the staff of the Law Office of the Hamilton County Public Defender. It is not the role of a panel attorney.

Section 4: Case Assignment

The appointment process will work as follows:

Day One Rotation

Hamilton County Juvenile Court hears day ones, or shelter care hearings, which are new cases entering the court system, Mondays through Fridays between the hours of 9:00 a.m. and 3:30 p.m. and may extend beyond this time frame if matters are contested. This schedule may be altered to accommodate legal holidays. The office manager of the Guardian ad Litem Division will develop and maintain a day one calendar for the panel attorneys. The calendar will be created and finalized in one (1) year increments as early as practically feasible for the upcoming calendar year.

For each scheduled day one docket, at least one panel attorney will be assigned to represent all parties on new cases being heard on that date. In the event that an existing case comes in (i.e., a newborn sibling) where parties already have appointed counsel, the scheduled panel attorney will be compensated to represent a party for the day one hearing only if the appointed attorney is unavailable for the hearing. The case will remain assigned to the previously appointed attorney. On occasion, multiple panel attorneys are needed on an individual case. The Law Office of the Public Defender will arrange for representation of all parties. In the event of any conflict among panel attorneys, the Law Office of the Public Defender reserves the ability to assign the panel attorney to the specific client. When a party to a day one completes the qualification process for counsel through the Public Defender's office, but is over income, the scheduled panel attorney will be compensated for representing that party for the day one hearing only. That party will have to secure private counsel for all future hearings.

If the assigned panel attorney receives **NO** appointments on their assigned day one day, they will be compensated for two (2) hours of work at a rate of fifty (50) dollars per hour for a total of one hundred (100) dollars.

Once the day one calendar has been finalized for the upcoming calendar year, all assigned dates become the responsibility of the assigned panel attorney. If the assigned panel attorney cannot make an assigned date due to a conflict, that panel attorney **MUST** find coverage for the assigned date. The panel attorney must then notify the office manager of the Guardian ad Litem Division of the change immediately. Only attorneys on the panel may be used for coverage.

Emergency Order Representation and Additional Day One Representation

When more than two attorneys are needed to conduct these hearings, the office manager of the Guardian ad Litem Division will maintain a list of attorneys interested in picking up these cases on an emergency basis. The office manager will not deviate from the list. Each attorney on the list will be contacted when their name comes to the top of the list. However, due to the urgent

nature of the situation, the office manager will not leave a message and will simply move on to the next name on the list should there be no answer.

Any attorney who accepts a case in this manner will be expected to be present on the sixth (6th floor) of the Hamilton County Juvenile Courthouse at 800 Broadway Street within twenty (20) minutes of agreeing to accept the case in order to keep the court docket flowing in an orderly fashion. If this is not a reasonable expectation, do not accept the case.

Non-Day One/Non-Emergency Appointments

A separate list of panel attorneys will be kept for those cases where an indigent party needs representation on a non-emergency basis. Case assignment is always a time sensitive issue. The goal of the Law Office of the Hamilton County Public Defender is not only to provide competent counsel to the indigent clients of the county, but to assign counsel in a timely fashion to ensure that there is adequate time for preparation before any scheduled court hearing. The office manager of the Guardian ad Litem Division will maintain the list and call each panel attorney as their name comes to the top of the list for case assignment. This same process will be utilized for assignment of guardian ad litem when there is a conflict within the Guardian ad Litem Division and an outside appointment is necessary.

Case Coverage

It is the expectation of the Law Office of the Hamilton County Public Defender that those attorneys selected to the panel will be professional, responsible attorneys and manage their calendars as such. Coverage for cases assigned to a panel attorney should not be a routine practice. On those unforeseen occasions when it is necessary, coverage is the responsibility of the appointed attorney. Only attorneys on the panel may be used for coverage of cases assigned by the Law Office of the Hamilton County Public Defender. No payment will be issued for any hours billed for the time of a non-panel attorney.

Withdrawal/Reassignment

The Law Office of the Hamilton County Public Defender is the agency charged with the responsibility of assigning counsel for indigent clients in Hamilton County Juvenile Court. In the event that an appointed attorney on the panel must withdraw, regardless if it is from one case or all of their cases assigned through the Law Office of the Hamilton County Public Defender, the case or cases must be returned to the office manager of the Guardian ad Litem Division for reassignment. Cases reassigned without the approval of the Law Office of the Hamilton County Public Defender will not be paid. Again, any time billed for a non-panel attorney will not be paid by the Law Office of the Hamilton County Public Defender.

Section 5: Specialized Dockets

Hamilton County Juvenile Court has two areas of specialized practice. They are the Hamilton County Family Treatment Drug Court and Medical Emergency cases. Due to the special nature of these cases, a small number of attorneys with special training and/or experience with these dockets are needed to practice in these areas. Any attorney wishing to be considered for appointments on these cases must submit a resume and cover letter to the Public Defender of Hamilton County for consideration. The cover letter must detail specifically what uniquely qualifies the attorney for appointment to these cases. The Hamilton County Public Defender will select a limited number of attorneys to practice in these areas based upon qualifications and experience.

Family Treatment Drug Court

The goal of the Family Treatment Drug Court is to identify families where the caretaker's substance abuse is a primary reason for the dependency of the children within the family. The court and participating agencies then work collaboratively to insure timely permanence for children by providing efficient, rehabilitative services for substance abusing caretakers.

Entering into the Hamilton County Family Treatment Drug Court is a voluntary decision made by the participant/client. In order to be eligible to participate in the Family Treatment Drug Court, the participant must execute the Hamilton County Family Drug Court Agreement, stipulate to an adjudication of abuse neglect or dependency, a disposition of Temporary Custody, and to the admissibility of drug court findings and records.

Hamilton County Family Treatment Drug Court meets each week on Tuesdays between 9:00 a.m. and 11:00 a.m. Drug court pretrials are conducted on Wednesday mornings at 9:30 a.m. Any attorney wishing to participate in the Hamilton County Family Treatment Drug Court must consider these time requirements prior to committing to engage in this specialized docket practice.

Medical Emergency Orders

On occasion, complaints are filed, usually by area hospitals, for an order authorizing emergency medical treatment for a child. These orders are authorized by Juv.R 13(C) and ORC 2151.33. Provided that the parent or caretaker qualifies for indigent representation, the Law Office of the Hamilton County Public Defender will provide legal services.

These hearings are always heard on an emergency basis; they are most often heard by a judge, not a magistrate; and they may be heard at the juvenile courthouse or the medical facility in which the child or parent/custodian is located depending on the circumstances of the case. Unlike the typical dependency case, these cases are generally only for the purposes of medical treatment. The most common reason for the filing of these cases is that the parent/caretaker objects to the requested medical treatment on the basis of their religious beliefs.

Section 6: Appeals

It is the expectation of the Law Office of the Hamilton County Public Defender that any attorney appointed on a dependency case will represent their client throughout the trial and objections process. Once a final, appealable order has been issued, it is expected that the attorney will communicate with their client and determine whether that client wishes to appeal the decision. If the client wishes to appeal to the First District Court of Appeals, it is the expectation of the Law Office of the Hamilton County Public Defender that the attorney will assist their client in filing the appeal. Initially, an Affidavit of Indigency, a Notice of Appeal, a Certificate of Service and the Juvenile Court Order which is being appealed must be filed in the Juvenile Court Clerk's Office under the appointed attorney's name. The Juvenile Clerk will then transfer the documents from the Juvenile Clerk to the First District Court of Appeals where an appellate case number will be assigned. This should occur within forty-eight (48) hours of the filing and can be verified by checking the docket statement or by contacting the First District Court of Appeals Clerk. Once the case number has been assigned, the appointed panel attorney will file a second Affidavit of Indigency with the Court of Appeals, a Motion to Appoint Counsel and a formal Motion to Withdraw, if the panel attorney chooses not to serve as counsel in the First District. It is not until this process has been completed that the panel attorney's obligation to their client is fulfilled.

In the event that a client cannot be located following the issuance of a final appealable order and the attorney believes their client would have wanted to appeal, the expectations of the Law Office of the Hamilton County Public Defender are the same as outlined above.

Section 7: Requests for Transcripts and Requests for Expert Witnesses

In order to obtain transcripts or to obtain permission to retain an expert witness, the panel attorney must receive prior written approval from the Hamilton County Public Defender or Deputy Public Defender (See attached forms). These forms must be brought in person to the Law Office of the Hamilton County Public Defender for consideration.

Section 8: Extraordinary Fees

Any request for extraordinary fees must be approved by the Hamilton County Public Defender or Deputy Public Defender.

Section 9: Vouchers

In order to be paid for work done on dependency cases in Hamilton County, counsel **MUST** comply with the following guidelines:

1. Vouchers must be filled out accurately and completely – if not completed accurately and completely, they will be returned. The staff off of the Law Office of the Hamilton County Public Defender will **NOT** fill out vouchers for rotation panel attorneys.
2. In dependency cases, it must be noted as “A, D, N” under the summary of charges section.
3. Since the state cap periods run between the “annual reviews” a voucher submitted in between “annual reviews” must be marked “Periodic Billing”. There is a box on the front sheet in the second section that must be checked.
4. Counsel is responsible for tracking their hours between reviews and any time the hours exceed or one thousand (\$1000) for a TC or twenty (20) hours or one thousand (1000) dollars for a PC, a motion for extraordinary fees **MUST** be filed. Prior to payment of any extraordinary fees, the permission of the Hamilton County Public Defender or Deputy Public Defender must be obtained. In order to make arrangements to discuss extraordinary fees with the Public Defender, contact the office to schedule an appointment.
5. Any voucher submitted following the first disposition after adjudication or after an “annual review” must be labeled “status conference”.
6. In the “offense charges matter” box on the front sheet, counsel must designate the purpose of the hearing.
7. In calculating time spent on a case, the Ohio Public Defender’s Office requires the use of tenths of an hour or six (6) minute increments. This is the only acceptable manner of calculating time for billing purposes. *See Attached Conversion Chart.

Section 10: Independent contractors / Panel Attorneys

An OPERS retiree cannot continue to receive benefits and work as a panel attorney or an independent contractor under a contract for any period of time for the employer from which they retired. This prohibition is applicable regardless of the number of hours or days you actually worked. A retiree who performs services as an independent contractor or panel attorney for the public employer from which they retired will forfeit the pension portion of their retirement benefit and the annuity portion of their retirement benefit will be suspended for the term of the contract. The annuity portion of the retirement benefit will be paid in a lump sum to the retiree following termination of the contract. You may continue to receive benefits under a contract for services as an independent contractor for another public employer. However, if this occurs within the first two months of retirement, you will forfeit the pension portion of your retirement benefit and the annuity portion of the benefit will be suspended for the term of the contract. Independent contractors are not eligible for membership in OPERS. The employer is liable for any pension overpayment resulting from lack of notice to OPERS of re-employment if the individual is determined to be a public employee. For further information, you may contact OPERS at (1-866-673-7748).

The Law Office of the Hamilton County Public Defender is committed to providing competent, zealous representation to the indigent in Hamilton County. The policies and procedures set forth above are designed to assist in that goal. Failure to follow these policies will result in removal from the dependency and guardian ad litem panels.