



How Do Lawyers Represent Children?

Children in the Courtroom Series: Part 1

Bailey Zydek
Children's Representation Program Director
CJC May 2026



AGENDA

- **Introduction to the Children’s Representation Program**
- **Review Dependent Children’s Right to Counsel**
- **Introduction to Attorney Practice Standards**
- **Overview of Stated Interest & Legal Interest Representation Models**
- **Review Ethical Bases for these Representation Models**
- **Breakdown the Mechanics of Rendering Legal Interest Representation**
- **Illustrate the Legal Interest Representation in Practice**
- **Q&A**



The Children's Representation Program



The Children's Representation Program

Mission

Underwrite and oversee the delivery of effective standards-based, trauma-informed, and culturally-competent attorney representation for children subject to dependency and termination proceedings in Washington State

Charge

Statutorily directed to contract with attorneys to provide legal representation to children and youth appointed counsel pursuant to RCW 13.34.212(1) and (3). *RCW 2.53.045*

The CRP Team



Program Director

Ensures successful execution of the CRP's statutory directives

Training & Operations Manager

Oversees and executes a training curriculum designed to ensure contracted attorney compliance with established practice standards & manages internal operations

Managing Attorneys

Monitor and oversee contracted attorney compliance with established practice standards

Client Voice & Community Impact Coordinator

Serves as the voice of legal system impacted children & youth within CRP operations as well as outwardly facing community partners

Administrative Support Team

Keeps this train running!



Dependent Children's Right to Counsel





Right to Counsel: Historical Background

For most of the history of child welfare in Washington State, children have not had right to legal representation in dependency or termination proceedings

- County by county determination
- No statewide practice standards or caseload limits

Modern evolution of the right to counsel



June 2010: children 12+ must be informed of right to *ask* to have an attorney appointed (no entitlement)

Right to Counsel: Historical Background



July 2011: youth 18-21 who participate in extended foster care are entitled to the appointment of counsel

July 2014: children who remain dependent six months after the termination of both parents' legal rights are entitled to the appointment of counsel



July 2017: Legislature directs a study evaluating dependent children's legal representation be conducted



DEPENDENT CHILDREN'S LEGAL REPRESENTATION STUDY

Duration: 2017-2019

Scope: Legal counsel for all children in dependencies, regardless of age, at all stages of proceedings

Subject Counties: Grant & Lewis

Control Counties: Douglas & Whatcom

Administrator: Office of Civil Legal Aid

Researchers: Washington State Center for Court Research, University of Washington

2017-2019 Study Results



45% higher rate of reunification

30% decrease in placement disruptions



65% reduction in non-normative school changes



Right to Counsel: Today

July 2021: Legislature enacts 2SHB 1219 instituting a statewide right to counsel for dependent children conditioned on age or case posture



- Response to positive results of 2017-2019 study evaluating impact of legal representation
- Gradual implementation
- Codified within RCW 13.34.212

RCW 13.34.212

*Court-Appointed Attorney
for a Child in a Dependency
Proceeding*

- (1) Mandatory appointment for children who remain “legally free” six months post-termination of parental rights
- (2) Discretionary appointment of counsel at county expense pursuant to *Mathews v. Eldridge* analysis
- (3) Mandatory appointment for children 8+ in dependencies and for all children, regardless of age, upon filing of termination petition in select counties

RCW 13.34.212 (3)

“The Expanded One”

- (3) Subject to the availability of amounts appropriated for this specific purpose:
- (a) Pursuant to the phase-in schedule set forth in (c) of this subsection (3), the court must appoint an attorney for every child in a dependency proceeding as follows:
- (i) For a child under the age of eight, appointment must be made for the dependency and termination action upon the filing of a termination petition. Nothing in this subsection shall be construed to limit the ability of the court to appoint an attorney to represent the child's position in a dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department, prior to the filing of a termination petition.
- (ii) For a child between the ages of eight through 17, appointment must be made upon the filing of a new dependency petition at or before the commencement of the shelter care hearing.
- (iii) For any pending or open dependency case where the child is unrepresented and is entitled to the appointment of an attorney under (a)(i) or (ii) of this subsection, appointment must be made at or before the next hearing if the child is eligible for representation pursuant to the phase-in schedule. At the next hearing, the court shall inquire into the status of attorney representation for the child, and if the child is not yet represented, appointment must be made at the hearing.
- (b) Appointment is not required if the court has already appointed an attorney for the child, or the child is represented by a privately retained attorney.

...

RCW 13.34.212 (3), Cont'd

“The Expanded One”

(c) The statewide children's legal representation program shall develop a schedule for court appointment of attorneys for every child in dependency proceedings that will be phased in on a county-by-county basis over a seven-year period. The schedule required under this subsection must not add more than 1,250 cases each fiscal year...

...

(d) In cases where the statewide children's legal representation program provides funding and where consistent with its administration and oversight responsibilities, the statewide children's legal representation program should prioritize continuity of counsel for children who are already represented at county expense when the statewide children's legal representation program becomes effective in a county. The statewide children's legal representation program shall coordinate with relevant county stakeholders to determine how best to prioritize this continuity of counsel.

(e) The statewide children's legal representation program is responsible for the recruitment, training, and oversight of attorneys providing standards-based representation pursuant to (a) and (c) of this subsection as provided in RCW [2.53.045](#) and shall ensure that attorneys representing children pursuant to this section provide legal services according to the rules of professional conduct, the standards of practice, caseload limits, and training guidelines adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021.

RCW 13.34.212 (1)

“The Legally Free One”

(1)(a) The court shall appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship pursuant to RCW [13.34.180](#) and when there is no remaining parent with parental rights.

(b) The court may appoint one attorney to a group of siblings, unless there is a conflict of interest, or such representation is otherwise inconsistent with the rules of professional conduct.

(c) Subject to availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to (a) of this subsection if the legal services are provided in accordance with the rules of professional conduct, the standards of practice, caseload limits, and training guidelines adopted by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010 until such time that new recommendations are adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021.

(d) The office of civil legal aid is responsible for implementation of (c) of this subsection as provided in RCW [2.53.045](#).

(e) Legal services provided by an attorney pursuant to (a) of this subsection do not include representation of the child in any appellate proceedings relative to the termination of the parent and child relationship.

RCW 13.34.212 (2)

“The Discretionary One”

(2)(a) The court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department.

(b)(i) If the court has not already appointed an attorney for a child, or the child is not represented by a privately retained attorney:

(A) The child's caregiver, or any individual, may refer the child to an attorney for the purposes of filing a motion to request appointment of an attorney at public expense; or

(B) The child or any individual may retain an attorney for the child for the purposes of filing a motion to request appointment of an attorney at public expense.

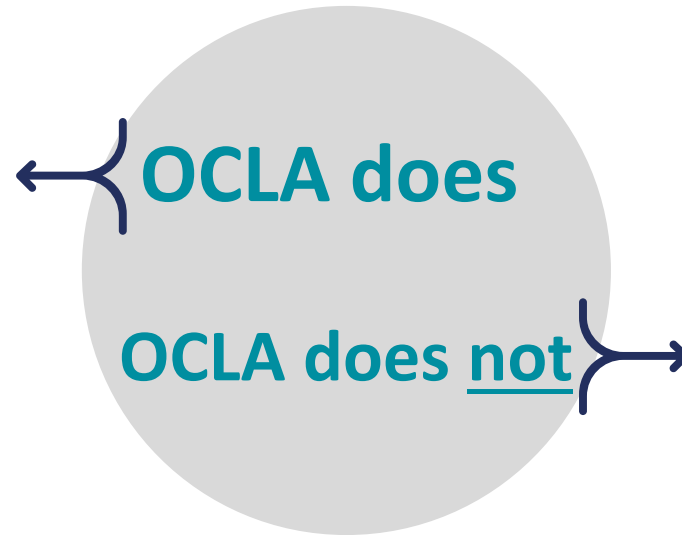
(ii) Nothing in this subsection changes or alters the confidentiality provisions of RCW [13.50.100](#).

(c) The department and the child's guardian ad litem shall each notify a child of the child's right to request an attorney and shall ask the child whether the child wishes to have an attorney. The department and the child's guardian ad litem shall notify the child and make this inquiry immediately after:...

OCLA'S ROLE IN ADMINISTERING RCW 13.34.212(1)&(3)

- Recruit
- Train
- Oversee
- Compensate
- Maintain

a statewide panel of attorneys
to accept case assignments
under RCW 13.34.212(1)&(3)



- ✗ Provide direct representation
- ✗ Manage the actual appointment of counsel



Expansion Counties

Adams	Mason
Benton	Pacific
Cowlitz	Pend Oreille
Franklin	Pierce
Ferry	Skamania
Grant	Stevens
Grays Harbor	Thurston
Kittitas	Wahkiakum
Klickitat	Walla Walla
Lewis	Yakima



Legally Free Counties

Asotin	Kitsap
Chelan	Lincoln
Clallam	Okanogan
Clark	San Juan
Columbia	Skagit
Douglas	Snohomish
Garfield	Spokane
Island	Whatcom
Jefferson	Whitman
King	





IMPACT OF STATEWIDE RIGHT TO COUNSEL

Prior to the CRP and statewide right to counsel laws:

- No broad-based requirement that attorneys practice in accordance with practice standards
- No formal mechanism for enforcing/overseeing compliance
- Created disparities in outcomes and quality of representation across state

Attorneys appointed pursuant RCW 13.34.212(1)&(3) must render **“standards based”** legal representation:

- Formal **training requirements**, **caseload limits**, and **practice expectations** are included as part of the standards by which assigned attorneys must abide.
- Establishes **oversight** and **enforcement mechanisms**





Attorney Practice Standards





Representation of Children and Youth In Dependency Cases Practice, Caseload, and Training Standards (Rev 2022)

2SHB 1219 (2021) Calls for the Supreme Court Commission on Children in Foster Care (CCFC) to convene “a children’s representation workgroup composed of relevant stakeholders, including an independent expert in attorneys’ ethical duties, to review and update...the standards of practice, caseload limits, and trainings guidelines” as published in 2011.

2021 Workgroup Co-chaired by an alumni of care and OCLA’s then-CRP manager; 4 additional alumni of care; 1 parent with lived experience; 2 judicial officers; licensed social worker and mental health expert; legal expert in ethics; active practitioners and other child welfare law experts. Drafts the *Representation of Children and Youth in Dependency Cases Practice, Caseload, and Training Standards*.

CCFC Adopts and Publishes the workgroup’s updated *Standards* in September 2022



Standards: Caseload Limits



Old limit: 60 clients, 80 total cases

Current limit: 45 clients, 60 total cases



Full-time = no outside work

Standards: Training Guidelines



Foundational Training Requirements



- 50+ hours of foundational training for attorneys new to the practice administered through OCLA's Virtual Training Academy
- Program has discretion to waive some or all of the foundational training series if attorney can demonstrate sufficient competency in relevant subjects

Ongoing Training Requirements

- 8 hours of child welfare related training per year
- Topics rotate according to Appendix A of the *Standards*
- Contracted attorneys must certify compliance on annual basis



Standards: Practice Guidelines



Representation Models

- Presume client-directed (stated interest)
- Legal interest representation for children unable to direct representation



Client Contact & Communication

- Trauma-informed, developmentally appropriate communication
- Monthly contact
- Regular in-person contact



Case Participation

- Attend all hearings and meetings where substantive rights of the child are at issue
- Review discovery
- File motions and briefs





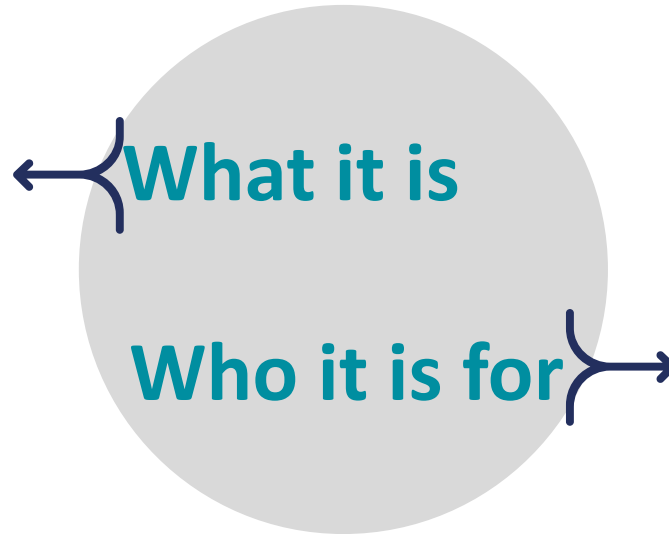
The Stated Interest Representation Model





Stated Interest Representation Model

Stated interest representation is rendered where an attorney represents and advocates for case goals and objectives identified to them by their client.



Children or youth who can communicate their wishes to their attorney concerning a given legal question.

Practice Standard 2: Stated Interest and Legal Interest

“Stated interest advocacy is the presumptive method of representation for all children capable of communicating their wishes.”

*Representation of
Children and Youth
in Dependency
Cases Practice,
Caseload and
Training Standards*

2.1 Stated Interest:

(1) The child's attorney should represent the child's stated interest, follow the child's direction throughout the course of litigation, and perform their duties in a manner consistent with the child's stated interests. A "stated interest" is an interest communicated to the attorney by the client either verbally, in writing, or through the use of techniques, such as American Sign Language, language interpreters, or assistive communication technologies that aid those children who are unable to communicate verbally.

*Representation of
Children and Youth
in Dependency
Cases Practice,
Caseload and
Training Standards*


2.1 Stated Interest:

(2) In soliciting a client's stated interests, the attorney has the duty to communicate in a developmentally appropriate and culturally responsive manner with clients of all ages, abilities, languages, cultures, and trauma experience. At all times, the attorney should be mindful that communication does not require sophisticated adult speech but does require an ability to express a preference communicated in a manner which allows the attorney to determine that the client has both: (a) formed an opinion as to the interest; and (b) that the client has the developmental ability to understand at least the general nature of the choice and relevant factors. It is not necessary that the client understand all the issues present before stated interest representation is required.

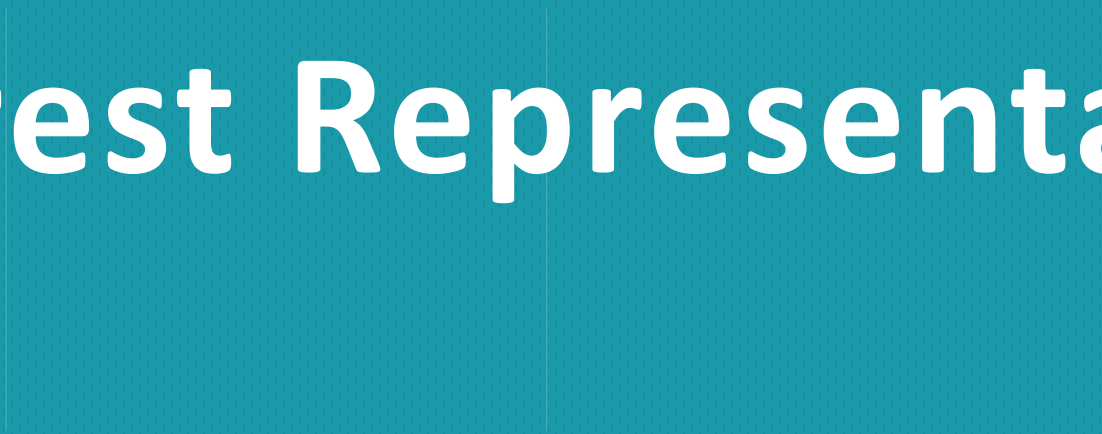
*Representation of
Children and Youth
in Dependency
Cases Practice,
Caseload and
Training Standards*

2.1 Stated Interest:

(3) In soliciting a client's stated interests, the attorney should take care not to impose the attorney's views upon the client and shall not substitute their own judgment as to what the client's stated interest should be.



Ethical Basis of Stated Interest Representation





RULES OF PROFESSIONAL CONDUCT

a.k.a. RPCs

RPC 1.2

**Scope of
Representation &
Allocation of
Authority
Between Client
and Lawyer**

RPC 1.4

Communication

RPC 1.6

**Confidentiality
of Information**

RPC 1.14

**Client with
Diminished
Capacity**

RPC 1.2: Scope of Representation & Allocation of Authority

Rules of Professional
Conduct

(a)...[A] lawyer **shall abide by a client's decisions** concerning the objectives of representation and, as required by RPC 1.4, **shall consult with the client as to the means by which they are to be pursued**. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation....

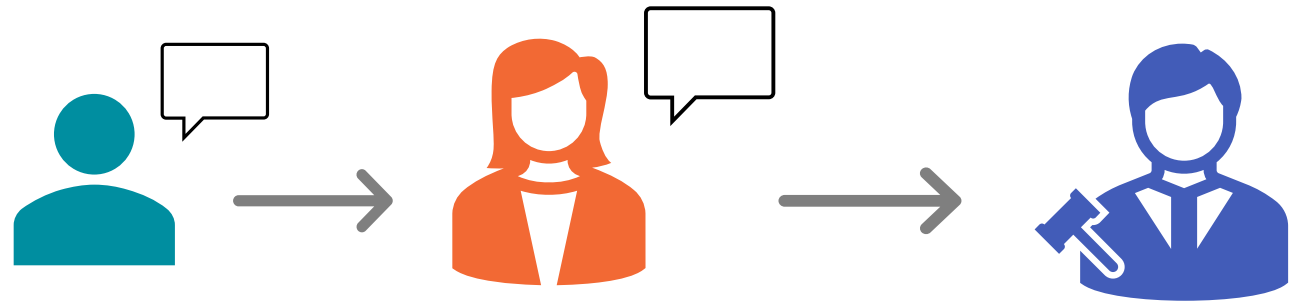
...

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but **a lawyer may discuss the legal consequences of any proposed course of conduct** with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

RPC 1.2: Comment 1

Rules of Professional
Conduct

The client has “the ultimate authority to determine the purposes to be served by legal representation.” The attorney’s own biases or belief do not factor into the analysis.



Under the stated interest model, the judicial officer remains the ultimate decision-maker in the child’s case.

RPC 1.4: Communication

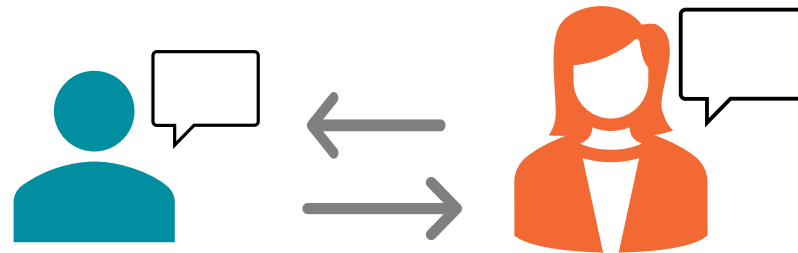
Rules of Professional
Conduct

- (a) A lawyer **shall**:
- (1) promptly **inform the client** of any decision or circumstance...
 - (2) reasonably **consult with the client** about the means by which the client's objectives are to be accomplished;
 - (3) **keep the client reasonably informed** about the status of the matter;
 - (4) promptly **comply with reasonable requests for information**;
- and
- (5) **consult with the client** about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer **shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions** regarding the representation.

RPC 1.4: Comments

Rules of Professional
Conduct

(1) “Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.”



(5) “The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued...”

RPC 1.4: Comments

Rules of Professional
Conduct

(6) “Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity....”

(7) “In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication...”

RPC 1.6: Confidentiality of Information

Rules of Professional
Conduct

(a) A lawyer **shall not** reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer to the extent the lawyer reasonably believes necessary:

- (1) **shall** reveal information relating to the representation of a client to prevent reasonably certain death or substantial bodily harm;
- (2) **may** reveal information relating to the representation of a client to prevent the client from committing a crime;
- (3)



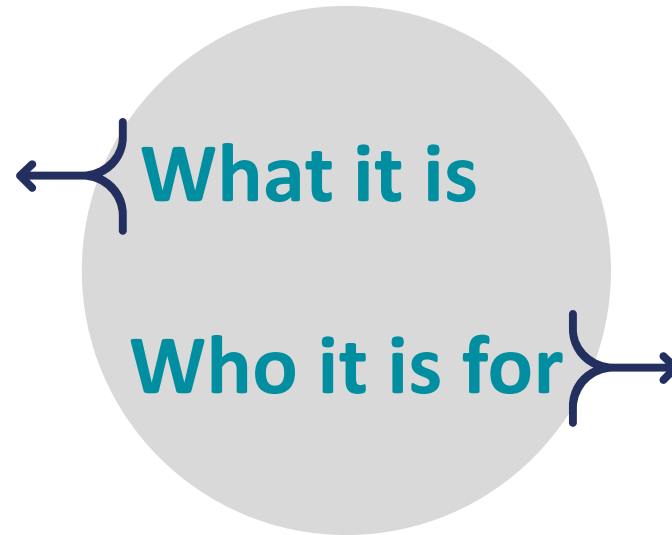
The Legal Interest Representation Model





Legal Interest Representation Defined

Client representation that is rendered by identifying, protecting, promoting, and enforcing the legal rights of dependent children as embodied in statute, case law, court rule, DCYF policy, or any other authority that bestows a legal right to a child who is a ward of the state



Children or youth who cannot meaningfully direct representation, such as pre- or non-verbal children

LEGAL INTEREST REPRESENTATION (2022)

*Representation of Children
and Youth in Dependency
Cases Practice, Caseload
and Training Standards*

Section 2.2(1):

Legal interest representation should be based on the laws that are related to the purpose of the proceeding. Accordingly, the attorney must be well-versed in applicable state and federal statutory and constitutional law regulations, caselaw, court rules, and administrative policies which confer rights upon the child and obligations upon the state. **These rights include, but are not limited to, the child's substantive due process right to be free from the unreasonable risk of harm while in state care as outlined in Braam v. State.**



Braam v. State

150 Wn.2d 689, 81 P.3d 851 (2003)

Facts

Class action lawsuit brought by foster children against DSHS (now DCYF) to improve the lives of children in foster care. Through this legal action, class members sought to force DSHS to drastically reduce the number of times foster children were moved while in State care and to provide for appropriate services.

Holding

“...[F]oster children have a constitutional substantive due process right to be free from unreasonable risks of harm and a right to reasonable safety. To be reasonably safe, the State, as custodian and caretaker of foster children, must provide conditions free of unreasonable risk of danger, harm, or pain, and must include adequate services to meet the basic needs of the child.”

LEGAL INTEREST REPRESENTATION (2022)

*Representation of Children
and Youth in Dependency
Cases Practice, Caseload
and Training Standards*

Section 2.2(2):

The presumption is that the legally recognized rights of the child are in the child's best interest. Therefore, the first step for the attorney is to identify all the legally-recognized rights of the child that are relevant to a particular stage of the proceeding. The second step is for the attorney to gather and present to the court all facts that are relevant to all the legally recognized rights at issue and also present legal briefing. If the child has a clearly established legal right, the attorney has a duty to argue for that right. Where there are competing legal rights of the child, the attorney is to present facts and legal authority on all the legal rights at issue but not take a position on which legal right should prevail. **The attorney should not argue what is in a child's best interest because it is the court's duty to assess and determine the best interests of the child...**



Principles & Presumptions

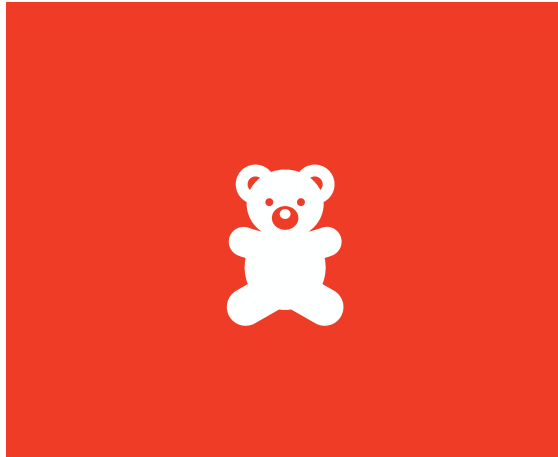


SO HOW'D WE LAND ON THIS MODEL?

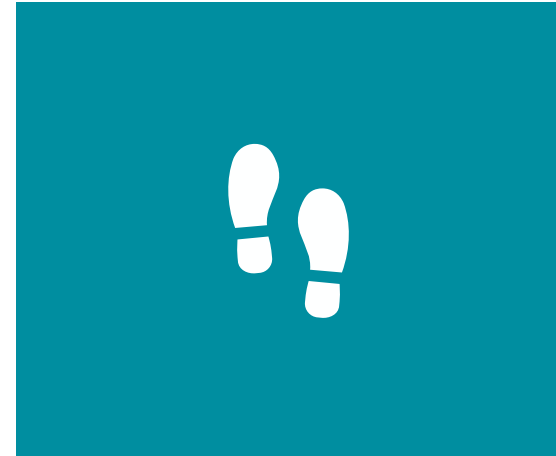
- 2SHB 1219 (2021) called for review of available research into the best practices regarding representation of children under the age of 8
- UW School of Law partnered with the Children's Rep Workgroup and conducted a national survey
- Concluded that legal interest model is best as it comports with attorneys' ethical responsibilities provides for de-biased legal representation
- Identified two major competing representation models



Two Competing Models



BEST INTEREST



**SUBSTITUTED
JUDGMENT**

BEST INTEREST

Attorneys determine the legal position of their clients by deciding what the attorneys themselves feel is in the child's best interest



Many states utilize some sort of “best interest” model for attorneys representing young children



SUBSTITUTED JUDGEMENT



Attorneys determine the legal position of their clients by placing themselves “in the shoes” of their client and effectively guessing what the child would want in a certain situation were the child able to communicate

National Association of Counsel for Children (NACC) recommends this model for pre- or non-verbal children



WHY WASHINGTON REJECTS BEST INTEREST



Introduces the potential for bias in an already biased system.

There is a “...danger of improper biases about ‘best interests’ contaminating the decision-making process...” and “[a]ctors in child welfare proceedings must be vigilant in preventing bias from interfering in their decision-making...”

In re K.W. 199 Wn.2d 131, 156 (2022)



DOES NOT COMPORT WITH THE RPCs

Not “protective action” and does not promote a “normal lawyer-client relationship” per RPC 1.14



DUPLICATIVE

Title 13 Guardians ad Litem and CASAs are statutorily directed to promote “best interests” of the child



WHY WASHINGTON REJECTS SUBSTITUTED JUDGMENT




FUNDAMENTALLY LIMITED

Babies and very young children have no prior life experience from which to base advocacy decisions.

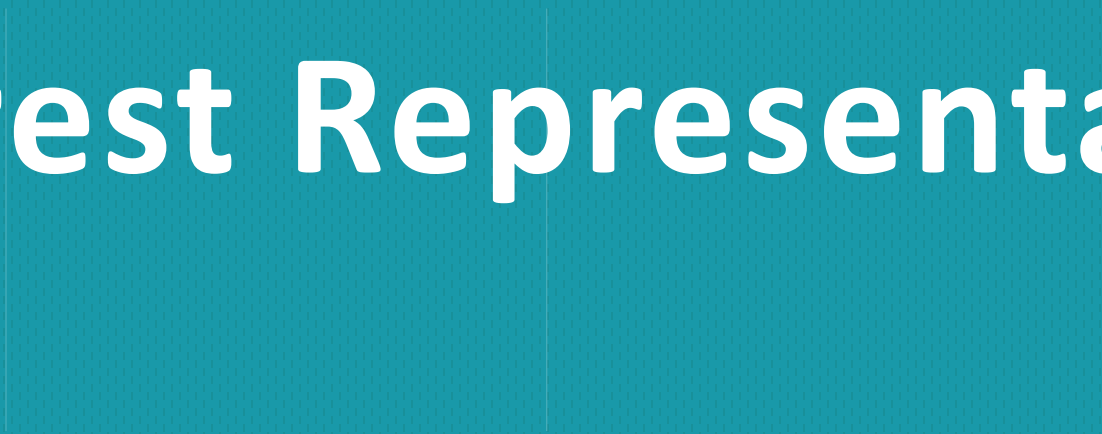


BEST INTEREST IN DISGUISE?

If you can't base your advocacy decisions on a client's past behaviors and decisions, you're effectively left to guess, and your guess is likely informed by your own biases.



Ethical Basis of Legal Interest Representation



**RPC 1.14:
Client with
Diminished
Capacity**

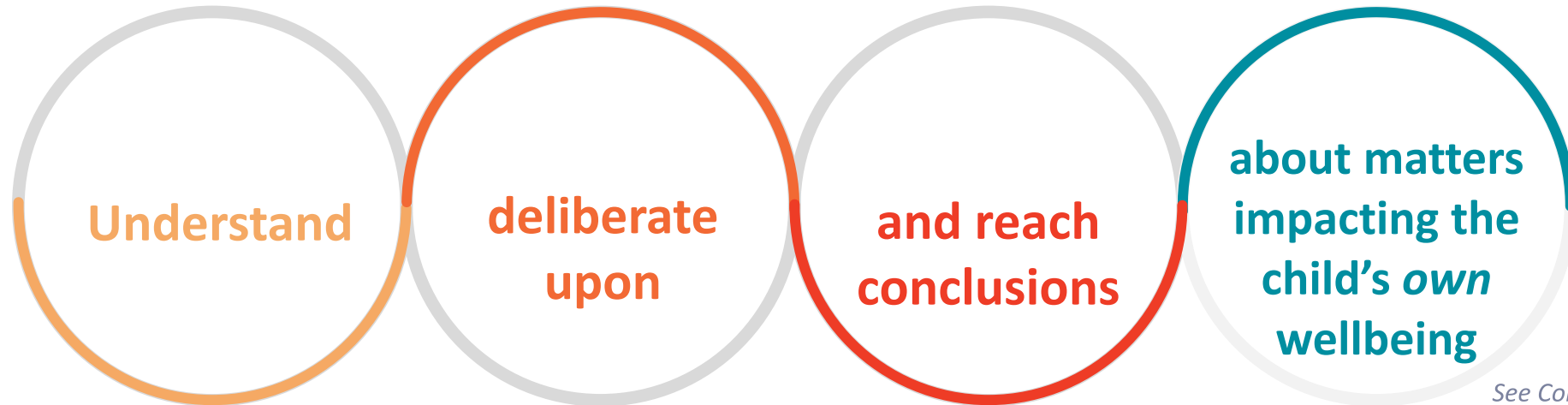
Rules of Professional
Conduct

(a) **When a client's capacity to make adequately considered decisions in connection with a representation is diminished**, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, **the lawyer may take reasonably necessary protective action**, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.



Capacity



See Comment 1, RPC 1.14

Clients need only be capable of making “adequately considered decisions in connection with a representation” for the attorney to be bound by RPC 1.2.

See RPC 1.14(a)

ABA Formal Opinion 96-404 (1996)

Re: Model Rule 1.14

“Rule 1.14(b) does not authorize the lawyer to take protective action because the client is not acting in what the lawyer believes to be the client’s best interest, but only when the client ‘cannot adequately act in the client’s *own* interest.’

(Emphasis added) **A client who is making decisions that the lawyer considers to be ill-considered is not necessarily unable to act in his own interest, and the lawyer should not seek protective action merely to protect the client from what the lawyer believes are errors in judgment...** Substituting the lawyer’s own judgment for what is in the client’s best interest robs the client of autonomy and is inconsistent with the principles of the ‘normal’ relationship.”

(internal citation omitted)

**RPC 1.14:
Client with
Diminished
Capacity**

Rules of Professional
Conduct

*“When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client’s own interest, **the lawyer may take reasonably necessary protective action...**”*

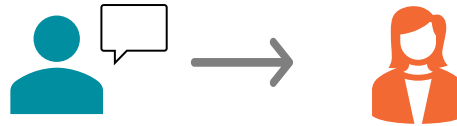
Legal Interest representation is protective action:

- Law presumes that a child’s legal rights are what are in their best interest.
- Lawyer’s sole focus is guarding and promoting the child’s legal rights.
- Request for GAL may be a form of protective action for discreet issues but not as a substitute for legal representation.

RPC 1.14: Client with Diminished Capacity

Rules of Professional
Conduct

*“When a client’s capacity to make adequately considered decisions in connection with a representation is diminished...the lawyer shall, as far as reasonably possible, **maintain a normal client-lawyer relationship with the client.**”*



- Client-directed or “stated interest” representation is the “normal” model of representation under the Rules of Professional Conduct.



- Under stated interest representation, the client decides what position the lawyer advocates for and the judge is the ultimate decision-maker.



- Under legal interest representation, the law determines what position the lawyer advocates for and the judge remains the ultimate decision maker.

**RPC 1.14:
Client with
Diminished
Capacity**

Rules of Professional
Conduct

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. **When taking protective action...the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.**



MECHANICS OF LEGAL INTEREST ADVOCACY





Legal Interest Rep in 4 Easy Steps!

1

Identify all the legally recognized rights of the child that are relevant to a particular legal issue or proceeding.

2


Determine what model of representation is applicable for that legal issue or proceeding.

3

Determine what position you must take based on the issue in question and the attendant rights.

4

Gather and present to the court all facts and law that are relevant to the legally recognized rights at issue.



RIGHTS VS. EXCEPTIONS

RCW 13.34.136(2)(b)(ii)(C): *...Visitation must occur in the least restrictive setting and be unsupervised unless the presence of threats or danger to the child requires the constant presence of an adult to ensure the safety of the child.*

- **Underlying Right:** To have unsupervised visitation in the least restrictive setting.
- **Exception to the Right:** Where the presence of threats or danger require supervision to maintain child safety.



But what if there are legitimate safety concerns?

Children have a right to be free from unreasonable risk of harm while in state care. *Braam v. State*, 150 Wn.2d 689, 81 P.3d 851 (2003)



Advocacy should be focused on achieving the client's legal rights in a *safe* manner.

How would you advocate in court for a client who could direct representation under these concerns?

- Services?
- Protection orders?
- Lengthier transition period?
- Court imposed timelines?
- Other safety planning measures?

The *judge* ultimately decides whether the concern can be resolved safely, not the attorney.



**LEGAL INTEREST
REPRESENTATION ILLUSTRATED**





Kai is a typically-developed legally free 4 year old. He has been in out of home care with paternal relatives who want to establish a guardianship, but DCYF will not file a petition until it completes a home study. You also receive notice from the court that Kai's maternal grandmother has petitioned the court for visitation under RCW 13.34.385. Maternal Grandma had supervised Kai's visits with his parents until their rights were terminated and visits stopped.

Kai's maternal aunt has placement of Kai's newborn half sister, Suzie. Maternal Aunt is holding herself out as a placement resource for Kai so that the siblings can be together, but she has indicated she is unwilling to be a permanent resource for either child. She has committed to facilitating visits between the siblings should Kai not be placed with her.

LEGAL ISSUES

KAI HYPO

- Guardianship
- Visitation with maternal grandma
- Competing relative placements
- Kai's overall capacity to weigh in on these topics

CAPACITY

KAI HYPO

Visits with Maternal Grandma

- Kai is a typically-developed four year old with a previously established relationship with Maternal Grandma.
Under these facts, Kai can likely provide meaningful feedback to his attorney on the prospect of spending time with Maternal Grandma again.
- While the court has to consider a number of factors when considering Maternal Grandma's petition, Kai does not need to have a sophisticated grasp of every aspect of the petition and proceedings for his feedback to be given consideration.
Kai's attorney could likely convey to the court what Kai's "stated interest" is with respect to visitation question.

CAPACITY

KAI HYPO

Guardianship

At only four years old, Kai may be unable to provide meaningful feedback on:

- whether he wants a guardianship (as opposed to some other legal outcome) to be established;
- whether he feels resolution to his dependency should be delayed so that the Department can complete a home study, per the Department's own policy; or
- whether he wants to bypass the Department altogether and be the petitioner himself.

When it comes to the guardianship question, Kai's attorney will resort to "legal interest" advocacy.

Competing Legal Interests?

KAI HYPO

Kai has the right to:

- To be placed with relatives. RCW 13.34.130
- To have sibling visitation, contact, or placement. RCW 13.34.130(7)
- To achieve permanency. RCW 13.34.138

Assuming visitation and contact can occur with the siblings who are in maternal aunt's care, all of Kai's relevant legal rights can be met by remaining with paternal relatives.



Q U E S T I O N S ?



Thank You!

Don't hesitate to reach out if you have any questions