

Institute of Judicial Administration
American Bar Association
Juvenile Justice Standards
Standards Relating to Counsel for Private Parties

PART I. GENERAL STANDARDS

Standard 1.1. Counsel in Juvenile Proceedings, Generally. The participation of counsel on behalf of all parties subject to juvenile and family court proceedings is essential to the administration of justice and to the fair and accurate resolution of issues at all stages of those proceedings.

Standard 1.2. Standards in Juvenile Proceedings, Generally.

- (a) As a member of the bar, a lawyer involved in juvenile court matters is bound to know and is subject to standards of professional conduct set forth in statutes, rules, decisions of courts, and codes, canons or other standards of professional conduct. Counsel has no duty to exercise any directive of the client that is inconsistent with law or these standards. Counsel may, however, challenge standards that he or she believes limit unconstitutionally or otherwise improperly representation of clients subject to juvenile court proceedings.
- (b) As used in these standards, the term "unprofessional conduct" denotes conduct which is now or should be subject to disciplinary sanction. Where other terms are used, the standard is intended as a guide to honorable and competent professional conduct or as a model for institutional organization.

Standard 1.3. Misrepresentation of Factual Propositions or Legal Authority. It is unprofessional conduct for counsel intentionally to misrepresent factual propositions or legal authority to the court or to opposing counsel and probation personnel in the course of discussions concerning entrance of a plea, early disposition or any other matter related to the juvenile court proceeding. Entrance of a plea concerning the client's responsibility in law for alleged misconduct or concerning the existence in law of an alleged status offense is a statement of the party's posture with respect to the proceeding and is not a representation of fact or of legal authority.

Standard 1.4. Relations with Probation and Social Work Personnel. A lawyer engaged in juvenile court practice typically deals with social work and probation department personnel throughout the course of handling a case. In general, the lawyer should cooperate with these agencies and should instruct the client to do so, except to the extent such cooperation is or will likely become inconsistent with protection of the client's legitimate interests in the proceeding or of any other rights of the client under the law.

Standard 1.5. Punctuality. A lawyer should be prompt in all dealings with the court, including attendance, submissions of motions, briefs and other papers, and in dealings with clients and other interested persons. It is unprofessional conduct for counsel intentionally to use procedural devices for which there is no legitimate basis, to misrepresent facts to the court or to accept conflicting responsibilities for the purpose of delaying court proceedings. The lawyer should also emphasize the importance of punctuality in attendance in court to the client and to witnesses to be called, and, to the extent feasible, facilitate their prompt attendance.

Standard 1.6. Public Statements.

- (a) The lawyer representing a client before the juvenile court should avoid personal publicity connected with the case, both during trial and thereafter.
- (b) Counsel should comply with statutory and court rules governing dissemination of information concerning juvenile and family court matters and, to the extent consistent with those rules, with the ABA Standards Relating to Fair Trial and Free Press.

Standard 1.7. Improvement in The Juvenile Justice System. In each jurisdiction, lawyers practicing before the juvenile court should actively seek improvement in the administration of juvenile justice and the provision of resources for the treatment of persons subject to the jurisdiction of the juvenile court.

PART II. PROVISIONS AND ORGANIZATION OF LEGAL SERVICES

Standard 2.1. General Principles.

(a) Responsibility for provision of legal services. Provision of satisfactory legal representation in juvenile and family court cases is the proper concern of all segments of the legal community. It is, accordingly, the responsibility of courts, defender agencies, legal professional groups, individual practitioners and educational institutions to ensure that competent counsel and adequate supporting services are available for representation of all persons with business before juvenile and family courts.

- (i) Lawyers active in practice should be encouraged to qualify themselves for participation in juvenile and family court cases through formal training, association with experienced juvenile counsel or by other means. To this end, law firms should encourage members to represent parties involved in such matters.
- (ii) Suitable undergraduate and postgraduate educational curricula concerning legal and nonlegal subjects relevant to representation in juvenile and family courts should regularly be available.
- (iii) Careful and candid evaluation of representation in cases involving children should be undertaken by judicial and professional groups, including the organized bar, particularly but not solely where assigned counsel-whether public or private-appears.

(b) Compensation for services.

- (i) Lawyers participating in juvenile court matters, whether retained or appointed, are entitled to reasonable compensation for time and services performed according to prevailing professional standards. In determining fees for their services, lawyers should take into account the time and labor actually required, the skill required to perform the legal service properly, the likelihood that acceptance of the case will preclude other employment for the lawyer, the fee customarily charged in the locality for similar legal services, the possible consequences of the proceedings, and the experience, reputation and ability of the lawyer or lawyers performing the services. In setting fees lawyers should also consider the performance of services incident to full representation in cases involving juveniles, including counseling and activities related to locating or evaluating appropriate community services for a client or a client's family.

- (ii) Lawyers should also take into account in determining fees the capacity of a client to pay the fee. The resources of parents who agree to pay for representation of their children in juvenile court proceedings may be considered if there is no adversity of interest as defined in Standard 3.2, *infra*, and if the parents understand that a lawyer's entire loyalty is to the child and that the parents have no control over the case. Where adversity of interests or desires between parent and child becomes apparent during the course of representation, a lawyer should be ready to reconsider the fee taking into account the child's resources alone.
 - (iii) As in all other cases of representation, it is unprofessional conduct for a lawyer to overreach the client or the client's parents in setting a fee, to imply that compensation is for anything other than professional services rendered by the lawyer or by others for him or her, to divide the fee with a layman, or to undertake representation in cases where no financial award may result on the understanding that payment of the fee is contingent in any way on the outcome of the case.
 - (iv) Lawyers employed in a legal aid or public defender office should be compensated on a basis equivalent to that paid other government attorneys of similar qualification, experience and responsibility.
- (c) *Supporting services.* Competent representation cannot be assured unless adequate supporting services are available. Representation in cases involving juveniles typically requires investigatory, expert and other nonlegal services. These should be available to lawyers and to their clients at all stages of juvenile and family court proceedings.
- (i) Where lawyers are assigned, they should have regular access to all reasonably necessary supporting services.
 - (ii) Where a defender system is involved, adequate supporting services should be available within the organization itself.
- (d) *Independence.* Any plan for providing counsel to private parties in juvenile court proceedings must be designed to guarantee the professional independence of counsel and the integrity of the lawyer-client relationship.

Standard 2.2. Organization of Services.

- (a) *In general.* Counsel should be provided in a systematic manner and in accordance with a widely publicized plan. Where possible, a coordinated plan for

representation which combines defender and assigned counsel systems should be adopted.

(b) Defender systems.

- (i) Application of general defender standards. A defender system responsible for representation in some or all juvenile court proceedings generally should apply to staff and offices engaged in juvenile court matters its usual standards for selection, supervision, assignment and tenure of lawyers, restrictions on private practice, provision of facilities and other organizational procedures.
- (ii) Facilities. If local circumstances require, the defender system should maintain a separate office for juvenile court legal and supporting staff, located in a place convenient to the courts and equipped with adequate library, interviewing and other facilities. A supervising attorney experienced in juvenile court representation should be assigned to and responsible for the operation of that office.
- (iii) Specialization. While rotation of defender staff from one duty to another is an appropriate training device, there should be opportunity for staff to specialize in juvenile court representation to the extent local circumstances permit.
- (iv) Caseload. It is the responsibility of every defender office to ensure that its personnel can offer prompt, full and effective counseling and representation to each client. A defender office should not accept more assignments than its staff can adequately discharge.

(c) Assigned counsel systems.

- (i) An assigned counsel plan should have available to it an adequate pool of competent attorneys experienced in juvenile court matters and an adequate plan for all necessary legal and supporting services.
- (ii) Appointments through an assigned counsel system should be made, as nearly as possible, according to some rational and systematic sequence. Where the nature of the action or other circumstances require, a lawyer may be selected because of his or her special qualifications to serve in the case, without regard to the established sequence.

Standard 2.3. Types of Proceedings.

(a) Delinquency and in need of supervision proceedings.

- (i) Counsel should be provided for any juvenile subject to delinquency or in need of supervision proceedings.
- (ii) Legal representation should also be provided the juvenile in all proceedings arising from or related to a delinquency or in need of supervision action, including mental competency, transfer, postdisposition, probation revocation, and classification, institutional transfer, disciplinary or other administrative proceedings related to the treatment process which may substantially affect the juvenile's custody, status or course of treatment. The nature of the forum and the formal classification of the proceeding is irrelevant for this purpose.

(b) Child protective, custody and adoption proceedings. Counsel should be available to the respondent parents, including the father of an illegitimate child, or other guardian or legal custodian in a neglect or dependency proceeding. Independent counsel should also be provided for the juvenile who is the subject of proceedings affecting his or her status or custody. Counsel should be available at all stages of such proceedings and in all proceedings collateral to neglect and dependency matters, except where temporary emergency action is involved and immediate participation of counsel is not practicable.

Standard 2.4. Stages Of Proceedings.

(a) Initial provision of counsel.

- (i) When a juvenile is taken into custody, placed in detention or made subject to an intake process, the authorities taking such action have the responsibility promptly to notify the juvenile's lawyer, if there is one, or advise the juvenile with respect to the availability of legal counsel.
- (ii) In administrative or judicial postdispositional proceedings which may affect the juvenile's custody, status or course of treatment, counsel should be available at the earliest stage of the decisional process, whether the respondent is present or not. Notification of counsel and, where necessary, provision of counsel in such proceedings is the responsibility of the judicial or administrative agency.

(b) Duration of representation and withdrawal of counsel.

- (i) Lawyers initially retained or appointed should continue their representation through all stages of the proceeding, unless

geographical or other compelling factors make continued participation impracticable.

- (ii) Once appointed or retained, counsel should not request leave to withdraw unless compelled by serious illness or other incapacity, or unless contemporaneous or announced future conduct of the client is such as seriously to compromise the lawyer's professional integrity. Counsel should not seek to withdraw on the belief that the contentions of the client lack merit, but should present for consideration such points as the client desires to be raised provided counsel can do so without violating standards of professional ethics.
- (iii) If leave to withdraw is granted, or if the client justifiably asks that counsel be replaced, successor counsel should be available.

PART III. THE LAWYER-CLIENT RELATIONSHIP

Standard 3.1. The Nature Of The Relationship.

(a) *Client's interests paramount.* However engaged, the lawyer's principal duty is the representation of the client's legitimate interests. Considerations of personal and professional advantage or convenience should not influence counsel's advice or performance.

(b) *Determination of client's interests.*

(i) Generally. In general, determination of the client's interests in the proceedings, and hence the plea to be entered, is ultimately the responsibility of the client after full consultation with the attorney.

(ii) Counsel for the juvenile.

[a] Counsel for the respondent in a delinquency or in need of supervision proceeding should ordinarily be bound by the client's definition of his or her interests with respect to admission or denial of the facts or conditions alleged. It is appropriate and desirable for counsel to advise the client concerning the probable success and consequences of adopting any posture with respect to those proceedings.

[b] Where counsel is appointed to represent a juvenile subject to child protective proceedings, and the juvenile is capable of considered judgment on his or her own behalf, determination of the client's interest in the proceeding should ultimately remain the client's responsibility, after full consultation with counsel.

[c] In delinquency and in need of supervision proceedings, where it is locally permissible to so adjudicate very young persons, and in child protective proceedings, the respondent may be incapable of considered judgment in his or her own behalf.

[1] Where a guardian *ad litem* has been appointed, primary responsibility for determination of the posture of the case rests with the guardian and the juvenile.

[2] Where a guardian *ad litem* has not been appointed, the attorney should ask that one be appointed.

[3] Where a guardian *ad litem* has not been appointed and, for some reason, it appears that independent advice to the juvenile will not otherwise be available, counsel should inquire thoroughly into all circumstances that a careful and competent person in the juvenile's

position should consider in determining the juvenile's interests with respect to the proceeding. After consultation with the juvenile, the parents (where their interests do not appear to conflict with the juvenile's), and any other family members or interested persons, the attorney may remain neutral concerning the proceeding, limiting participation to presentation and examination of material evidence or, if necessary, the attorney may adopt the position requiring the least intrusive intervention justified by the juvenile's circumstances.

- (iii) Counsel for the parent. It is appropriate and desirable for an attorney to consider all circumstances, including the apparent interests of the juvenile, when counseling and advising a parent who is charged in a child protective proceeding or who is seeking representation during a delinquency or in need of supervision proceeding. The posture to be adopted with respect to the facts and conditions alleged in the proceeding, however, remains ultimately the responsibility of the client.

Standard 3.2 Adversity of Interests.

(a) *Adversity of interests defined.* For purposes of these standards, adversity of interests exists when a lawyer or lawyers associated in practice:

- (i) Formally represent more than one client in a proceeding and have a duty to contend in behalf of one client that which their duty to another requires them to oppose.
- (ii) Formally represent more than one client and it is their duty to contend in behalf of one client that which may prejudice the other client's interests at any point in the proceeding.
- (iii) Formally represent one client but are required by some third person or institution, including their employer, to accommodate their representation of that client to factors unrelated to the client's legitimate interests.

(b) *Resolution of adversity.* At the earliest feasible opportunity, counsel should disclose to the client any interest in or connection with the case or any other matter that might be relevant to the client's selection of a lawyer. Counsel should at the same time seek to determine whether adversity of interests potentially exists and, if so, should immediately seek to withdraw from representation of the client who will be least prejudiced by such withdrawal.

Standard 3.3. Confidentiality.

(a) *Establishment of confidential relationship.* Counsel should seek from the outset to establish a relationship of trust and confidence with the client. The lawyer

should explain that full disclosure to counsel of all facts known to the client is necessary for effective representation, and at the same time explain that the lawyer's obligation of confidentiality makes privileged the client's disclosures relating to the case.

(b) Preservation of client's confidences and secrets.

- (i) Except as permitted by 3.3(d), below, an attorney should not knowingly reveal a confidence or secret of a client to another, including the parent of a juvenile client.
- (ii) Except as permitted by 3.3(d), below, an attorney should not knowingly use a confidence or secret of a client to the disadvantage of the client or, unless the attorney has secured the consent of the client after full disclosure, for the attorney's own advantage or that of a third person.

(c) Preservation of secrets of a juvenile client's parent or guardian. The attorney should not reveal information gained from or concerning the parent or guardian of a juvenile client in the course of representation with respect to a delinquency or in need of supervision proceeding against the client, where (1) the parent or guardian has requested the information be held inviolate, or (2) disclosure of the information would likely be embarrassing or detrimental to the parent or guardian and (3) preservation would not conflict with the attorney's primary responsibility to the interests of the client.

- (i) The attorney should not encourage secret communications when it is apparent that the parent or guardian believes those communications to be confidential or privileged and disclosure may become necessary to full and effective representation of the client.
- (ii) Except as permitted by 3.3(d), below, an attorney should not knowingly reveal the parent's secret communication to others or use a secret communication to the parent's disadvantage or to the advantage of the attorney or of a third person, unless (1) the parent competently consents to such revelation or use after full disclosure or (2) such disclosure or use is necessary to the discharge of the attorney's primary responsibility to the client.

Disclosure of confidential communications. In addition to circumstances specifically mentioned above, a lawyer may reveal:

- (i) Confidences or secrets with the informed and competent consent of the client or clients affected, but only after full disclosure of all relevant circumstances to them. If the client is a juvenile incapable

of considered judgment with respect to disclosure of a secret or confidence, a lawyer may reveal such communications if such disclosure (1) will not disadvantage the juvenile and (2) will further rendition of counseling, advice or other service to the client.

- (ii) Confidences or secrets when permitted under disciplinary rules of the ABA Code of Professional Responsibility or as required by law or court order.
- (iii) The intention of a client to commit a crime or an act which if done by an adult would constitute a crime, or acts that constitute neglect or abuse of a child, together with any information necessary to prevent such conduct. A lawyer must reveal such intention if the conduct would seriously endanger the life or safety of any person or corrupt the processes of the courts and the lawyer believes disclosure is necessary to prevent the harm. If feasible, the lawyer should first inform the client of the duty to make such revelation and seek to persuade the client to abandon the plan.
- (iv) Confidences or secrets material to an action to collect a fee or to defend himself or herself or any employees or associates against an accusation of wrongful conduct.

Standard 3.4. Advice and Service with Respect to Anticipated Unlawful Conduct. It is unprofessional conduct for a lawyer to assist a client to engage in conduct the lawyer believes to be illegal or fraudulent, except as part of a bona fide effort to determine the validity, scope, meaning or application of a law.

Standard 3.5. Duty to Keep Client Informed. The lawyer has a duty to keep the client informed of the developments in the case, and of the lawyer's efforts and progress with respect to all phases of representation. This duty may extend, in the case of a juvenile client, to a parent or guardian whose interests are not adverse to the juvenile's, subject to the requirements of confidentiality set forth in 3.3, above.

PART IV. INITIAL STAGES OF REPRESENTATION

Standard 4.1. Prompt Action to Protect the Client. Many important rights of clients involved in juvenile court proceedings can be protected only by prompt advice and action. The lawyers should immediately inform clients of their rights and pursue any investigatory or procedural steps necessary to protection of their clients' interests.

Standard 4.2. Interviewing the Client.

- (a) The lawyer should confer with a client without delay and as often as necessary to ascertain all relevant facts and matters of defense known to the client.

- (b) In interviewing a client, it is proper for the lawyer to question the credibility of the client's statements or those of any other witness. The lawyer may not, however, suggest expressly or by implication that the client or any other witness prepare or give, on oath or to the lawyer, a version of the facts which is in any respect untruthful, nor may the lawyer intimate that the client should be less than candid in revealing material facts to the attorney.

Standard 4.3. Investigation and Preparation.

- (a) It is the duty of the lawyer to conduct a prompt investigation of the circumstances of the case and to explore all avenues leading to facts concerning responsibility for the acts or conditions alleged and social or legal dispositional alternatives. The investigation should always include efforts to secure information in the possession of prosecution, law enforcement, education, probation and social welfare authorities. The duty to investigate exists regardless of the client's admissions or statements of facts establishing responsibility for the alleged facts and conditions or of any stated desire by the client to admit responsibility for those acts and conditions.
- (b) Where circumstances appear to warrant it, the lawyer should also investigate resources and services available in the community and, if appropriate, recommend them to the client and the client's family. The lawyer's responsibility in this regard is independent of the posture taken with respect to any proceeding in which the client is involved.
- (c) It is unprofessional conduct for a lawyer to use illegal means to obtain evidence or information or to employ, instruct or encourage others to do so.

Standard 4.4. Relations with Prospective Witnesses.

The ethical and legal rules concerning counsel's relations with lay and expert witnesses generally govern lawyers engaged in juvenile court representation.

PART V. ADVISING AND COUNSELING THE CLIENT

Standard 5.1. Advising the Client Concerning the Case.

- (a) After counsel is fully informed on the facts and the law, he or she should with complete candor advise the client involved in juvenile court proceedings concerning all aspects of the case, including counsel's frank estimate of the probable outcome. It is unprofessional conduct for a lawyer intentionally to understate or overstate the risks, hazards or prospects of the case in order unduly or improperly to influence the client's determination of his or her posture in the matter.

- (b) The lawyer should caution the client to avoid communication about the case with witnesses where such communication would constitute, apparently or in reality, improper activity. Where the right to jury trial exists and has been exercised, the lawyer should further caution the client with regard to communication with prospective or selected jurors.

Standard 5.2. Control and Direction of the Case.

- (a) Certain decisions relating to the conduct of the case are in most cases ultimately for the client and others are ultimately for the lawyer. The client, after full consultation with counsel, is ordinarily responsible for determining:
 - (i) the plea to be entered at adjudication;
 - (ii) whether to cooperate in consent judgment or early disposition plans;
 - (iii) whether to be tried as a juvenile or an adult, where the client has that choice;
 - (iv) whether to waive jury trial;
 - (v) whether to testify on his or her own behalf.
- (b) Decisions concerning what witnesses to call, whether and how to conduct cross-examination, what jurors to accept and strike, what trial motions should be made, and any other strategic and tactical decisions not inconsistent with determinations ultimately the responsibility of and made by the client, are the exclusive province of the lawyer after full consultation with the client.
- (c) If a disagreement on significant matters of tactics or strategy arises between the lawyer and the client, the lawyer should make a record of the circumstances, his or her advice and reasons, and the conclusion reached. This record should be made in a manner which protects the confidentiality of the lawyer-client relationship.

Standard 5.3. Counseling. A lawyer engaged in juvenile court representation often has occasion to counsel the client and, in some cases, the client's family with respect to nonlegal matters. This responsibility is generally appropriate to the lawyer's role and should be discharged, as any other, to the best of the lawyer's training and ability.

PART VI. INTAKE, EARLY DISPOSITION AND DETENTION

Standard 6.1. Intake and Early Disposition Generally. Whenever the nature and circumstances of the case permit, counsel should explore the possibility of early diversion from the formal juvenile court process through subjudicial agencies and other community

resources. Participation in pre- or nonjudicial stages of the juvenile court process may be critical to such diversion, as well as to protection of the client's rights.

Standard 6.2. Intake Hearings.

- (a) In jurisdictions where intake hearings are held prior to reference of a juvenile court matter for judicial proceedings, the lawyer should be familiar with and explain to the client and, if the client is a minor, to the client's parents, the nature of the hearing, the procedures to be followed, the several dispositions available and their probable consequences. The lawyer should further advise the client of his or her rights at the intake hearing, including the privilege against self-incrimination where appropriate, and of the use that may be made of the client's statements.
- (b) The lawyer should be prepared to make to the intake hearing officer arguments concerning the jurisdictional sufficiency of the allegations made and to present facts and circumstances relating to the occurrence of and the client's responsibility for the acts or conditions charged or to the necessity for official treatment of the matter.

Standard 6.3. Early Disposition.

- (a) When the client admits the acts or conditions alleged in the juvenile court proceeding and, after investigation, the lawyer is satisfied that the admission is factually supported and that the court would have jurisdiction to act, the lawyer should, with the client's consent, consider developing or cooperating in the development of a plan for informal or voluntary adjustment of the case.
- (b) A lawyer should not participate in an admission of responsibility by the client for purposes of securing informal or early disposition when the client denies responsibility for the acts or conditions alleged.

Standard 6.4. Detention.

- (a) If the client is detained or the client's child is held in shelter care, the lawyer should immediately consider all steps that may in good faith be taken to secure the child's release from custody.
- (b) Where the intake department has initial responsibility for custodial decisions, the lawyer should promptly seek to discover the grounds for removal from the home and may present facts and arguments for release at the intake hearing or earlier. If a judicial detention hearing will be held, the attorney should be prepared, where circumstances warrant, to present facts and arguments relating to the jurisdictional sufficiency of the allegations, the appropriateness of the place of and criteria used for detention, and any noncompliance with procedures for referral to court or for

detention. The attorney should also be prepared to present evidence with regard to the necessity for detention and a plan for pretrial release of the juvenile.

- (c) The lawyer should not personally guarantee the attendance or behavior of the client or any other person, whether as surety on a bail bond or otherwise.

PART VII. ADJUDICATION

Standard 7.1. Adjudication without Trial.

- (a) Counsel may conclude, after full investigation and preparation, that under the evidence and the law the charges involving the client will probably be sustained. Counsel should so advise the client and, if negotiated pleas are allowed under prevailing law, may seek the client's consent to engage in plea discussions with the prosecuting agency. Where the client denies guilt, the lawyer cannot properly participate in submitting a plea of involvement when the prevailing law requires that such a plea be supported by an admission of responsibility in fact.
- (b) The lawyer should keep the client advised of all developments during plea discussions with the prosecuting agency and should communicate to the client all proposals made by the prosecuting agency. Where it appears that the client's participation in a psychiatric, medical, social or other diagnostic or treatment regime would be significant in obtaining a desired result, the lawyer should so advise the client and, when circumstances warrant, seek the client's consent to participation in such a program.

Standard 7.2. Formality, In General. While the traditional formality and procedure of criminal trials may not in every respect be necessary to the proper conduct of juvenile court proceedings, it is the lawyer's duty to make all motions, objections or requests necessary to protection of the client's rights in such form and at such time as will best serve the client's legitimate interests at trial or on appeal.

Standard 7.3. Discovery and Motion Practice.

(a) *Discovery.*

- (i) Counsel should promptly seek disclosure of any documents, exhibits or other information potentially material to representation of clients in juvenile court proceedings. If such disclosure is not readily available through informal processes, counsel should diligently pursue formal methods of discovery including, where appropriate, the filing of motions for bills of particulars, for discovery and inspection of exhibits, documents and photographs, for production of statements by and evidence favorable to the respondent, for production of a list of witnesses, and for the taking of depositions.

- (ii) In seeking discovery, the lawyer may find that rules specifically applicable to juvenile court proceedings do not exist in a particular jurisdiction or that they improperly or unconstitutionally limit disclosure. In order to make possible adequate representation of the client, counsel should in such cases investigate the appropriateness and feasibility of employing discovery techniques available in criminal or civil proceedings in the jurisdiction.
- (b) Other motions. Where the circumstances warrant, counsel should promptly make any motions material to the protection and vindication of the client's rights, such as motions to dismiss the petition, to suppress evidence, for mental examination, or appointment of an investigator or expert witness, for severance, or to disqualify a judge. Such motions should ordinarily be made in writing when that would be required for similar motions in civil or criminal proceedings in the jurisdiction. If a hearing on the motion is required, it should be scheduled at some time prior to the adjudication hearing if there is any likelihood that consolidation will work to the client's disadvantage.

Standard 7.4. Compliance with Orders.

- (a) Control of proceedings is principally the responsibility of the court, and the lawyer should comply promptly with all rules, orders and decisions of the judge. Counsel has the right to make respectful requests for reconsideration of adverse rulings and has the duty to set forth on the record adverse rulings or judicial conduct which counsel considers prejudicial to the client's legitimate interests.
- (b) The lawyer should be prepared to object to the introduction of any evidence damaging to the client's interest if counsel has any legitimate doubt concerning its admissibility under constitutional or local rules of evidence.

Standard 7.5. Relations with Court and Participants.

- (a) The lawyer should at all times support the authority of the court by preserving professional decorum and by manifesting an attitude of professional respect toward the judge, opposing counsel, witnesses and jurors
 - (i) When court is in session, the lawyer should address the court and not the prosecutor directly on any matter relating to the case unless the person acting as prosecutor is giving evidence in the proceeding.
 - (ii) It is unprofessional conduct for a lawyer to engage in behavior or tactics purposely calculated to irritate or annoy the court, the prosecutor or probation department personnel.
- (b) When in the company of clients or clients' parents, the attorney should maintain a professional demeanor in all associations with opposing counsel and with court or probation personnel.

Standard 7.7. Presentation of Evidence.

It is unprofessional conduct for a lawyer knowingly to offer false evidence or to bring inadmissible evidence to the attention of the trier of fact, to ask questions or display demonstrative evidence known to be improper or inadmissible, or intentionally to make impermissible comments or arguments in the presence of the trier of fact. When a jury is empaneled, if the lawyer has substantial doubt concerning the admissibility of evidence, he or she should tender it by an offer of proof and obtain a ruling on its admissibility prior to presentation.

Standard 7.8. Examination of Witnesses.

- (a) The lawyer in juvenile court proceedings should be prepared to examine fully any witness whose testimony is damaging to the client's interests. It is unprofessional conduct for counsel knowingly to forego or limit examination of a witness when it is obvious that failure to examine fully will prejudice the client's legitimate interests.
- (b) The lawyer's knowledge that a witness is telling the truth does not preclude cross-examination in all circumstances, but may affect the method and scope of cross-examination. Counsel should not misuse the power of cross-examination or impeachment by employing it to discredit the honesty or general character of a witness known to be testifying truthfully.
- (c) The examination of all witnesses should be conducted fairly and with due regard for the dignity and, to the extent allowed by the circumstances of the case, the privacy of the witness. In general, and particularly when a youthful witness is testifying, the lawyer should avoid unnecessary intimidation or humiliation of the witness.
- (d) A lawyer should not knowingly call as a witness one who will claim a valid privilege not to testify for the sole purpose of impressing that claim on the fact-finder. In some instances, as defined in the ABA Code of Professional Responsibility, doing so will constitute unprofessional conduct.
- (e) It is unprofessional conduct to ask a question that implies the existence of a factual predicate which the examiner knows cannot be supported by evidence.

Standard 7.9. Testimony by the Respondent.

- (a) It is the lawyer's duty to protect the client's privilege against self- incrimination in juvenile court proceedings. When the client has elected not to testify, the lawyer should be alert to invoke the privilege and should insist on its recognition unless the client competently decides that invocation should not be continued.
- (b) If the respondent has admitted to counsel facts which establish his or her responsibility for the acts or conditions alleged and if the lawyer, after independent investigation, is satisfied that those admissions are true, and the respondent insists on exercising the right to testify at the adjudication hearing, the lawyer must advise the client against taking the stand to testify falsely and, if necessary, take appropriate steps to avoid lending aid to perjury.
 - (i) If, before adjudication, the respondent insists on taking the stand to testify falsely, the lawyer must withdraw from the case if that is feasible and should seek the leave of the court to do so if necessary.
 - (ii) If withdrawal from the case is not feasible or is not permitted by the court, or if the situation arises during adjudication without notice, it is unprofessional conduct for the lawyer to lend aid to perjury or to use the perjured testimony. Before the respondent takes the stand in these circumstances the lawyer should, if possible, make a record of the fact that respondent is taking the stand against the advice of counsel without revealing that fact to the court. Counsel's examination should be confined to identifying the witness as the respondent and permitting the witness to make his or her statement to the trier of fact. Counsel may not engage in direct examination of the respondent in the conventional manner and may not recite or rely on the false testimony in argument.

Standard 7.10. Argument. The lawyer in juvenile court representation should comply with the rules generally governing argument in civil and criminal proceedings.

PART VIII. TRANSFER PROCEEDINGS

Standard 8.1. In General. A proceeding to transfer a respondent from the jurisdiction of the juvenile court to a criminal court is a critical stage in both juvenile and criminal justice processes. Competent representation by counsel is essential to the protection of the juvenile's rights in such a proceeding.

Standard 8.2. Investigation and Preparation.

- (a) In any case where transfer is likely, counsel should seek to discover at the earliest opportunity whether transfer will be sought and, if so, the procedure and criteria according to which that determination will be made.

- (b) The lawyer should promptly investigate all circumstances of the case bearing on the appropriateness of transfer and should seek disclosure of any reports or other evidence that will be submitted to or may be considered by the court in the course of transfer proceedings. Where circumstances warrant, counsel should promptly move for appointment of an investigator or expert witness to aid in the preparation of the defense and for any other order necessary to protection of the client's rights.

Standard 8.3. Advising and Counseling the Client Concerning Transfer. Upon learning that transfer will be sought or may be elected, counsel should fully explain the nature of the proceeding and the consequences of transfer to the client and the client's parents. In so doing, counsel may further advise the client concerning participation in diagnostic and treatment programs which may provide information material to the transfer decision.

Standard 8.4. Transfer Hearings. If a transfer hearing is held, the rules set forth in Part VII of these standards shall generally apply to counsel's conduct of that hearing.

Standard 8.5. Post-Hearing Remedies. If transfer for criminal prosecution is ordered, the lawyer should act promptly to preserve an appeal from that order and should be prepared to make any appropriate motions for post-transfer relief.

PART IX. DISPOSITION

Standard 9.1. In General. The active participation of counsel at disposition is often essential to protection of clients' rights and to furtherance of their legitimate interests. In many cases the lawyer's most valuable service to clients will be rendered at this stage of the proceeding.

Standard 9.2. Investigation and Preparation.

- (a) Counsel should be familiar with the dispositional alternatives available to the court, with its procedures and practices at the disposition stage, and with community services that might be useful in the formation of a dispositional plan appropriate to the client's circumstances.
- (b) The lawyer should promptly investigate all sources of evidence including any reports or other information that will be brought to the court's attention and interview all witnesses material to the disposition decision.
- (c) If access to social investigation, psychological, psychiatric or other reports or information is not provided voluntarily or promptly, counsel should be prepared to seek their disclosure and time to study them through formal measures.
- (d) Whether or not social and other reports are readily available, the lawyer has a duty independently to investigate the client's circumstances, including such

factors as previous history, family relations, economic condition and any other information relevant to disposition.

- (e) The lawyer should seek to secure the assistance of psychiatric, psychological, medical or other expert personnel needed for purposes of evaluation, consultation or testimony with respect to formation of a dispositional plan.

Standard 9.3. Counseling Prior to Disposition.

- (a) The lawyer should explain to the client the nature of the disposition hearing, the issues involved and the alternatives open to the court. The lawyer should also explain fully and candidly the nature, obligations and consequences of any proposed dispositional plan, including the meaning of conditions of probation, the characteristics of any institution to which commitment is possible, and the probable duration of the client's responsibilities under the proposed dispositional plan. Ordinarily, the lawyer should not make or agree to a specific dispositional recommendation without the client's consent.
- (b) When psychological or psychiatric evaluations are ordered by the court or arranged by counsel prior to disposition, the lawyer should explain the nature of the procedure to the client and encourage the client's cooperation with the person or persons administering the diagnostic procedure.
- (c) The lawyer must exercise discretion in revealing or discussing the contents of psychiatric, psychological, medical and social reports, tests or evaluations bearing on the client's history or condition or, if the client is a juvenile, the history or condition of the client's parents. In general, the lawyer should not disclose data or conclusions contained in such reports to the extent that, in the lawyer's judgment based on knowledge of the client and the client's family, revelation would be likely to affect adversely the client's well-being or relationships within the family and disclosure is not necessary to protect the client's interests in the proceeding.

Standard 9.4. Disposition Hearing.

- (a) It is the lawyer's duty to insist that proper procedure be followed throughout the disposition stage and that orders entered be based on adequate reliable evidence.
- (b) Where the dispositional hearing is not separate from adjudication or where the court does not have before it all evidence required by statute, rules of court or the circumstances of the case, the lawyer should seek a continuance until such evidence can be presented if to do so would serve the client's interests.
- (c) The lawyer at disposition should be free to examine fully and to impeach any witness whose evidence is damaging to the client's interests and to challenge the accuracy, credibility and weight of any reports, written statements or other evidence before the court. The lawyer should not knowingly limit or forego

examination or contradiction by proof of any witness, including a social worker or probation department officer, when failure to examine fully will prejudice the client's interests. Counsel may seek to compel the presence of witnesses whose statements of fact or opinion are before the court or the production of other evidence on which conclusions of fact presented at disposition are based.

- (d) The lawyer may, during disposition, ask that the client be excused during presentation of evidence when, in counsel's judgment, exposure to a particular item of evidence would adversely affect the well-being of the client or the client's relationship with his or her family, and the client's presence is not necessary to protecting his or her interests in the proceeding.

Standard 9.5. Counseling After Disposition.

When a dispositional decision has been reached, it is the lawyer's duty to explain the nature, obligations and consequences of the disposition to the client and his or her family and to urge upon the client the need for accepting and cooperating with the dispositional order. If appeal from either the adjudicative or dispositional decree is contemplated, the client should be advised of that possibility, but the attorney must counsel compliance with the court's decision during the interim.

PART X. REPRESENTATION AFTER DISPOSITION

Standard 10.1. Relations with the Client After Disposition.

- (a) The lawyer's responsibility to the client does not necessarily end with dismissal of the charges or entry of a final dispositional order. The attorney should be prepared to counsel and render or assist in securing appropriate legal services for the client in matters arising from the original proceeding.
- (b) If the client has been found to be within the juvenile court's jurisdiction, the lawyer should maintain contact with both the client and the agency or institution involved in the disposition plan in order to ensure that the client's rights are respected and, where necessary, to counsel the client and the client's family concerning the dispositional plan.
- (c) Whether or not the charges against the client have been dismissed, where the lawyer is aware that the client or the client's family needs and desires community or other medical, psychiatric, psychological, social or legal services, he or she should render all possible assistance in arranging for such services.
- (d) The decision to pursue an available claim for postdispositional relief from judicial and correctional or other administrative determinations related to juvenile court proceedings, including appeal, habeas corpus or an action to protect the client's right to treatment, is ordinarily the client's responsibility after full consultation with counsel.

Standard 10.2. Post-Dispositional Hearings Before the Juvenile Court.

- (a) The lawyer who represents a client during initial juvenile court proceedings should ordinarily be prepared to represent the client with respect to proceedings to review or modify adjudicative or dispositional orders made during earlier hearings or to pursue any affirmative remedies that may be available to the client under local juvenile court law.
- (b) The lawyer should advise the client of the pendency or availability of a postdispositional hearing or proceeding and of its nature, issues and potential consequences. Counsel should urge and, if necessary, seek to facilitate the prompt attendance at any such hearing of the client and of any material witnesses who may be called.

Standard 10.3. Counsel on Appeal.

- (a) Trial counsel, whether retained or appointed by the court, should conduct the appeal unless new counsel is substituted by the client or by the appropriate court. Where there exists an adequate pool of competent counsel available for assignment to appeals from juvenile court orders and substitution will not work substantial disadvantage to the client's interests, new counsel may be appointed in place of trial counsel.
- (b) Whether or not trial counsel expects to conduct the appeal, he or she should promptly inform the client, and where the client is a minor and the parents' interests are not adverse, the client's parents of the right to appeal and take all steps necessary to protect that right until appellate counsel is substituted or the client decides not to exercise this privilege.
- (c) Counsel on appeal, after reviewing the record below and undertaking any other appropriate investigation, should candidly inform the client as to whether there are meritorious grounds for appeal and the probable results of any such appeal, and should further explain the potential advantages and disadvantages associated with appeal. However, appellate counsel should not seek to withdraw from a case solely because his or her own analysis indicates that the appeal lacks merit.

Standard 10.4. Conduct of the Appeal.

The rules generally governing conduct of appeals in criminal and civil cases govern conduct of appeals in juvenile court matters.

Standard 10.5. Post-Dispositional Remedies: Protection of the Client's Right to Treatment.

- (a) A lawyer who has represented a client through trial and/or appellate proceedings should be prepared to continue representation when post-dispositional action,

whether affirmative or defensive, is sought, unless new counsel is appointed at the request of the client or continued representation would, because of geographical considerations or other factors, work unreasonable hardship.

- (b) Counsel representing a client in post-dispositional matters should promptly undertake any factual or legal investigation in order to determine whether grounds exist for relief from juvenile court or administrative action. If there is reasonable prospect of a favorable result, the lawyer should advise the client and, if their interests are not adverse, the client's parents of the nature, consequences, probable outcome and advantages or disadvantages associated with such proceedings.
- (c) The lawyer engaged in post-dispositional representation should conduct those proceedings according to the principles generally governing representation in juvenile court matters.

Standard 10.6. Probation Revocation; Parole Revocation.

- (a) Trial counsel should be prepared to continue representation if revocation of the client's probation or parole is sought, unless new counsel is appointed or continued representation would, because of geographical or other factors, work unreasonable hardship.
- (b) Where proceedings to revoke conditional liberty are conducted in substantially the same manner as original petitions alleging delinquency or need for supervision, the standards governing representation in juvenile court generally apply. Where special procedures are used in such matters, counsel should advise the client concerning those procedures and be prepared to participate in the revocation proceedings at the earliest stage.

Standard 10.7. Challenges to the Effectiveness of Counsel.

- (a) A lawyer appointed or retained to represent a client previously represented by other counsel has a good faith duty to examine prior counsel's actions and strategy. If, after investigation, the new attorney is satisfied that prior counsel did not provide effective assistance, the client should be so advised and any appropriate relief for the client on that ground should be vigorously pursued.
- (b) A lawyer whose conduct of a juvenile court case is drawn into question may testify in judicial, administrative or investigatory proceedings concerning the matters charged, even though in so doing the lawyer must reveal information which was given by the client in confidence.