

Youth, Rights & Justice

ATTORNEYS AT LAW

What happened in Washington when they reduced caseloads for dependency attorneys?¹

Limiting caseloads for attorneys representing parents in Washington State led to the following outcomes in foster care/child welfare cases:

- A 2010 program case audit found a **39 percent increase in the rate of reunification.**

A review of 12,000 cases from 2004-07 also found:

- **104% higher adoption rates;**
- **83% higher guardianship rates;**
- **Adoptions and guardianships were accelerated by approximately 1 year.**

Improved outcomes save the state money by reducing the number of days, weeks and months that children remain in foster care. It's better for kids, too.

Why do attorney caseloads (workloads) matter?

"Quality legal representation for parties in child welfare cases leads to better judicial decision-making, more engaged families, and greater access to services. Attorneys present information to the judge, provide advice, and help identify supports for their clients. **Most importantly, they work with clients to help them achieve success."**

What is different about Washington's approach?

"Key program elements include caseload limits (**maximum of 80 open cases per attorney**), attorney standards, access to expert services and social workers, OPD oversight of attorneys, and training and support."²

Why should Oregon reduce caseloads for attorneys in dependency cases, as well?

"[The Washington] program achieves **better outcomes** for children, including **increased family reunifications, fewer reunification failures and case re-filings, reduced time to all permanency outcomes**, continuance reductions, **improved parent participation, and better access to services.**"

¹From "Court-Based Child Welfare Reforms: Improved Child/Family Outcomes and Potential Cost Savings," co-released by SPARC and the American Bar Association's Center on Children and the Law.

<http://childwelfaresparc.com/2012/08/08/new-policy-brief-court-based-child-welfare-reforms-improved-childfamily-outcomes-and-potential-cost-savings/>

² Caseloads in some Oregon counties can be as high as 300 cases per attorney. Many, if not most range between 100-200.

for interveners under subsection (1)(b) of this section, to have counsel appointed as otherwise provided by law; (c) The right to call witnesses, cross-examine witnesses and participate in hearings; (d) The right of appeal..." (O.R.S. § 419B.875(1)(a), (2)(a)-(d)).

6. Do the Rules of Professional Conduct (or the state's equivalent thereto) pertaining to liability and confidentiality apply to attorneys representing children in dependency proceedings?

Points: 10 out of 10

"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" (ORPC 1.14).

Extra Credit: Does state law address caseload standards for children's counsel in dependency proceedings?

Points: 3 extra credit points

"Attorneys appointed to represent financially eligible persons at state expense must provide competent and adequate representation to each client. Neither defender organizations nor assigned counsel shall accept workloads that, by reason of their size or complexity, interfere with providing competent and adequate representation or lead to the breach of professional obligations" (Public Defense Services Commission, Qualification Standards for Court-Appointed Counsel to Represent Financially Eligible Persons at State Expense, Standard II).



4. To what extent are specialized education and/or training requirements for the child's counsel required by state law? Is such education and/or training required to include multidisciplinary elements?

Points: 6 out of 10

Any individual serving as a guardian ad litem must "comply with training requirements established under § 2.56.030 prior to appointment" (Wash. Rev. Code Ann. § 13.34.102).

Basis for deduction: Although Washington law requires specialized training for GALs, it does not expressly require specialized education and/or training for attorneys appointed as legal counsel for children in dependency proceedings.

5. Does state law expressly give the child the legal status of a party with all rights appurtenant thereto? If not, does state law expressly give the child some of the rights of a party?

Points: 5 out of 10

Washington law expressly provides some children in dependency proceedings with at least one right (the right to service of summons "if the child is twelve or more years of age" (Wash. Rev. Code Ann. § 13.34.070)).

Basis for deduction: Washington law does not expressly provide party status to children in dependency proceedings.

6. Do the Rules of Professional Conduct (or the state's equivalent thereto) pertaining to liability and confidentiality apply to attorneys representing children in dependency proceedings?

Points: 10 out of 10

"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" (Wash. RPC 1.14(a)).

Extra Credit: Does state law address caseload standards for children's counsel in dependency proceedings?

Points: 0 extra credit points

Washington law does not address caseload standards for attorneys representing children in dependency proceedings.

