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# Office of the Child's Representative

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## Performance Plan



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June 30, 2017

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*OCR is an independent agency  
within the Judicial Department*



# Description of the major functions of the Colorado Office of the Child's Representative

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The Colorado Office of the Child's Representative (OCR) provides competent and effective legal advocacy to children who have been abused, neglected or abandoned, impacted by high conflict domestic relations disputes, or charged with delinquent acts and without a parent or guardian able to protect their best interests during the proceedings. OCR's Denver Executive Office is located in the Ralph Carr Judicial Center, 1300 Broadway, Ste. 320, Denver, CO 80203. The OCR's Executive Director, three staff attorneys, and six accounting/training/administrative staff members (8.7 FTE) are charged with improving legal services for children and addressing the unique needs of legal representation of children in Colorado.

At the time of the OCR's creation, the General Assembly had serious concerns about the subpar quality of representation provided to children in Colorado, including: 1) financial barriers to the necessary frontloading of services or ongoing dedication of the proper amount of time to cases; 2) caseloads impairing appropriate case preparation and investigation; 3) insufficient meaningful interaction by attorneys with children in their environment; and 4) a lack of participation by attorneys in court.

The statute creating the OCR sets forth its comprehensive mandate to ensure enhanced best interests legal representation of children who come into contact with Colorado's court system, as well as a list of specific mandates necessary to the accomplishment of this goal. The OCR's statutory mandates include:

- Improve the quality of attorney services and maintain consistency of representation statewide.
- Provide accessible training statewide for attorneys.
- Establish minimum practice standards for all attorneys representing the best interests of children.
- Provide oversight of the practice of attorneys to ensure compliance with the established minimum standards.

*The mission of the Office of the Child's Representative (OCR) is to provide competent and effective legal representation to Colorado's children involved in the court system because they have been abused and neglected, charged with delinquent acts and without a parent available to protect their best interests during the proceedings, or impacted by high conflict parenting time disputes. As a state agency, the OCR is accountable to the State of Colorado to achieve this mission in the most cost-efficient manner without compromising the integrity of services or the safety and well-being of children. The OCR is committed to ensuring that children whose interests are represented by its contract attorneys, Colorado's most vulnerable and marginalized population in the courts, receive the best legal services available to protect and promote their safety and well-being and to have their voice heard throughout all aspects of a case.*

- Establish fair and realistic compensation for state-appointed GALs sufficient to retain high-quality, experienced attorneys.
- Serve as a resource for attorneys.
- Develop measurement instruments to assess and document the effectiveness of various models of representation.

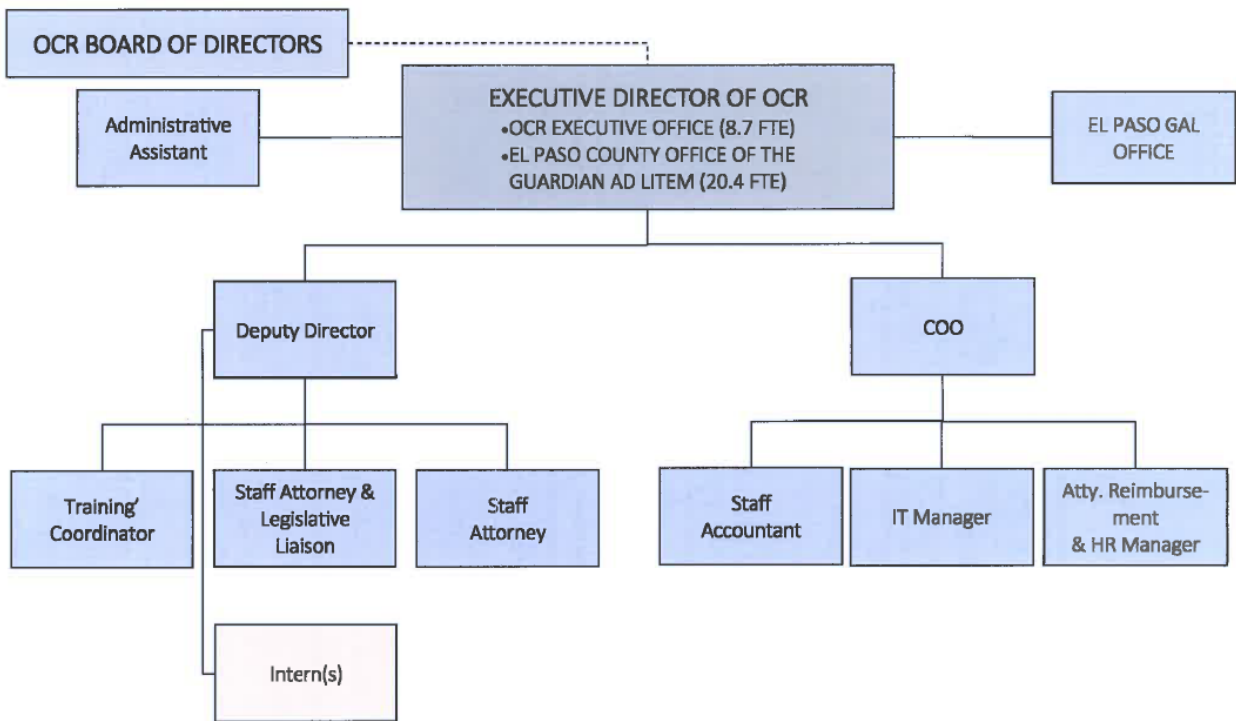
See § 13-91-101 *et seq.*, C.R.S.

The OCR’s paramount mandate is to provide competent attorney services in the most cost effective manner possible through a comprehensive and properly funded program.

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### Colorado Office of the Child’s Representative (OCR) Organizational Chart

July 1, 2016



# Attorney Services Provided By the OCR

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Court-appointed attorney guardian *ad litem* (GAL) legal service is a mandated service that must be provided to children who have been abused and neglected. Section 19-3-203, C.R.S., states the court shall appoint a GAL in every dependency and neglect (D&N) case. Courts have the discretion to appoint GALs in delinquency (JD), truancy, paternity, probate, relinquishment, mental health, and other proceedings when best interests representation is deemed necessary. While the statutory roles and responsibilities vary slightly by proceeding, in all case types, the GAL's professional duties flow solely to the best interests of the child. The GAL is appointed to independently investigate, make recommendations that are in the best interests of the child, and advocate on that child's behalf through all stages of the proceedings.

## *OCR's Vision:*

*Each Colorado child in need of an OCR attorney will receive comprehensive legal advocacy from an attorney who has expertise in juvenile law who will diligently and effectively represent the child's legal interests in a cost-effective manner.*

Attorneys may also be appointed as Child's Legal Representative (CLR) in domestic relations (DR) proceedings. Section 14-10-116, C.R.S., requires the state to bear all costs in a parental responsibility case of a CLR if the parties are indigent. The OCR serves as the oversight and payment entity for state-paid attorney CLR appointments.

In Fiscal Year (FY) 12-13, the OCR assumed the responsibility for oversight and payment of attorneys appointed as counsel for children in D&N proceedings. The appointment of counsel for children is discretionary; the court may appoint counsel for the child subject to a D&N proceeding in addition to the GAL if the court finds that the appointment is in the best interests and welfare of the child.

The OCR provided legal services through three models of representation in FY 16-17:

1. ***Independent contractors:*** The OCR contracted with approximately 250 independent contractors throughout Colorado in FY 16-17. These contract entities are small businesses and include sole practitioners and law firms.
2. ***OCR's El Paso County GAL Office:*** A model of attorney services that falls under the jurisdiction of the OCR is the OCR's El Paso County GAL Office. The creation of the office as the Fourth Judicial District Pilot Project was in direct response to Senate Bill 99-215 (Long Appropriations Bill), Footnote 135, which directed the Judicial Department to pilot alternative methods of providing GAL services. This "staff model" office is entering its seventeenth year of operation. The model

employs 12 attorneys and five case coordinators. Each of these employees is an FTE. The case coordinators are social service professionals, and they supplement the attorney services by providing, for example, analyses of treatment needs, meaningful participation in case staffings, communication with treatment providers, and observation of parent/child visits. The use of such multidisciplinary staff services is recognized as a promising practice by the National Association of Counsel for Children (NACC). The OCR evaluated the effectiveness of the OCR El Paso County GAL Office as part of its multidisciplinary law office pilot program.

3. ***OCR's Multidisciplinary Law Office (MDLO) Pilot Program:*** The OCR's MDLO pilot program allowed the OCR to explore another model for providing efficient and effective GAL services. From FY 11-12 through FY 16-17, the OCR considered the potential benefits of expanding a formalized law office structure for delivering multidisciplinary representation outside El Paso County. The OCR's evaluation of the MDLO Pilot Project is reported in Section II.C. below. This pilot program was developed after many years of analysis regarding a fiscally responsible manner to implement SB 03-258, Footnote 118, which requested that the OCR study alternative methods of providing GAL services in D&N cases by exploring whether it could implement a multidisciplinary office in Denver similar to the OCR El Paso County GAL Office.

Through a Request for Proposal (RFP) process, the OCR contracted with three law offices to provide multidisciplinary GAL services in Denver and Arapahoe Counties. Subject to caseload limits and conflict of interest prohibitions on handling specific cases, the law office in Arapahoe County provided representation in D&N, JD and truancy cases, while the two offices in Denver were responsible for providing representation in D&N cases in specific divisions of the Denver Juvenile court. Social work staff was assigned to cases as appropriate. The OCR's contracts with the offices contained enhanced requirements, such as more frequent contact with children than the standards set by Chief Justice Directive (CJD) 04-06.

Regardless of which service delivery model is utilized, all OCR attorneys are held to high practice expectations and specially trained on the law, social science research, and best practices relating to issues impacting children involved in court proceedings. The legal advocacy provided by OCR attorneys plays a critical role in giving children a voice in the legal system, providing safe and appropriate placements for court-involved children, preserving family connections and important relationships, achieving timely permanency that serves the unique needs of each child, and supporting children in becoming responsible and productive members of society.

# Key OCR Activities, Operations, Strategies, and Performance Measures

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<b>OCR PERFORMANCE GOALS &amp; STRATEGIES</b>	
<b>GOALS</b>	<b>STRATEGIES</b>
<p><b>1:</b> Provide children a voice in the Colorado legal system through effective attorney services and advocacy.</p>	<ul style="list-style-type: none"> <li>A. Ensure children’s voice &amp; interests are paramount in the development of policy, law &amp; practice</li> <li>B. Establish attorney qualifications &amp; practice standards</li> <li>C. Provide oversight &amp; evaluation of attorney practice</li> <li>D. Assess judicial district needs</li> <li>E. Contract with attorneys based on data illustrating compliance with CJD and OCR practice standards</li> <li>F. Establish fair and reasonable compensation for OCR attorneys</li> <li>G. Investigate alternative models of providing legal representation</li> </ul>
<p><b>2:</b> The OCR will optimize efficiencies in attorney practice and billing.</p>	<ul style="list-style-type: none"> <li>A. Manage appropriations &amp; assess program needs</li> <li>B. Maximize use and effectiveness of OCR’s on-line case management/billing system</li> <li>C. Provide litigation support and facilitate practice innovations</li> <li>D. Process, manage, and evaluate attorney billings</li> </ul>
<p><b>3:</b> The OCR will ensure attorneys remain current in state and federal law and regulations, social science research, and evidence-based services.</p>	<ul style="list-style-type: none"> <li>A. Cultivate a learning &amp; practice environment that supports excellence in legal representation</li> <li>B. Assess attorney education needs</li> <li>C. Implement OCR Core Competencies</li> <li>D. Require attorneys to meet minimum training requirements</li> <li>E. Disseminate updates on developments in law and social science and maintain current and relevant resources for attorneys’ use</li> </ul>

## OCR's Data Collection Efforts

Since its inception, the OCR has made strides towards developing a data-driven practice for overseeing attorney services and managing its state dollars. Child welfare practice does not lend itself to simple outcome-based analysis, as appropriate results in one case may not be appropriate in another. The OCR concentrates its data collection on compliance with practice standards to assess the effectiveness of representation. The OCR's efforts in practice assessment and data collection have received state and national attention.

## OCR's Online Case Management and Billing System

The OCR utilized a paper billing system at its creation and, over the years, transitioned to an electronic billing system. In 2011, with the support of grant funding, OCR implemented an online case billing and management system through a contract with a non-profit legal entity providing GAL services in a different state. The system allowed for limited data retrieval regarding attorney practice. In FY 12-13, the OCR acquired the source code to the system, renamed the system "OCR Colorado Attorney Reimbursement Electronic System" (C.A.R.E.S.), and began its work with contract programmers to tailor C.A.R.E.S. to the OCR's unique oversight needs and specifics of attorney practice in Colorado.

C.A.R.E.S. allows attorneys to maintain a comprehensive electronic file for each child they serve. Attorneys can record details about placement, visits with children, contacts with other parties and professionals, outcomes of court appearances, school and treatment provider information, and duration of placements. Attorneys can quickly access relevant information for each child. Attorney feedback indicated that billing categories needed simplification and system navigations enhanced to improve user experience. In January, 2015, OCR simplified billing categories not only to improve user experience, but also data collection as data it assesses from C.A.R.E.S. is completely dependent upon user entry. In FY 14-15, OCR made several reports available to attorneys so they can also track performance indicators.

The OCR utilizes its billing and case management system and other controls to ensure the efficient and appropriate use of taxpayer dollars. OCR staff reviews attorney billing submittals in order to ensure that the work done meets minimum standards and that state dollars are efficiently spent and used for only allowable expenditures. Attorneys have 30 days in which to enter billing activities and respond to staff disputes of billing submittals. OCR maintains presumptive maximum fees for each case type and OCR staff must approve requests to exceed those fees within set parameters. OCR attorney staff reviews requests for expert witness testimony, travel expenses, interpreters, and other forms of litigation support. OCR staff also conducts audits of attorney billing throughout the year using reports generated by C.A.R.E.S.

C.A.R.E.S. improved the OCR's ability to perform systemic monitoring of attorney performance and progress towards meeting its vision and goals. The data currently



available through C.A.R.E.S. allows the OCR to run individual attorney reports on key indicators of attorney performance, such as in-placement contact with children, other contacts with children and other parties, and youth involvement in court proceedings. OCR staff reviews the C.A.R.E.S. reports with attorneys during its evaluation process described below to ensure the data reflect practice and address identified practice issues. The OCR's ability to consistently compile relevant data from C.A.R.E.S. has been a significant challenge, as the queries are quite complex and dependent on users entering complete and accurate information. Further improvements to OCR's billing and case management system are critical in order for OCR to establish benchmarks and increase staff and user efficiencies.

In spring 2015, OCR issued a RFP seeking a new customized case management and billing system supportive of OCR's essential functions. The RFP did not result in a cost-effective alternative to C.A.R.E.S. In FY 15-16, OCR continued investigating whether further improvements to an aging C.A.R.E.S. were feasible. This investigation confirmed the development of a new billing and case management system was necessary in order to improve functions for contractors and OCR staff, reduce support and operating costs, and improve OCR's data collection.

OCR sought and obtained funding through the FY 17-18 budget process to replace C.A.R.E.S. The OCR utilized the Statewide Internet Portal Authority to obtain multiple quotes through a Request For Quotations process, developed in consultation with the Office of the State Court Administrator. OCR has indicated its intent to award a contract and is currently negotiating with a new vendor. OCR anticipates that improvements to C.A.R.E.S. will improve its data collection efforts.

## ***I. Identification and Development of Practice Standards***

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Expectations for attorneys under contract with the OCR are set forth in statute, Chief Justice Directives (CJD), and the OCR's contract. CJD 04-06 sets forth standards for OCR contract attorneys on all case types subject to OCR's oversight. Pursuant to its statutory mandate, the OCR makes recommendations to the Chief Justice of the Colorado Supreme Court on the standards embodied in the CJD.

The OCR continues to refine its expectations through its contracts with attorneys and by recommending revisions to the CJD. For example,

- In response to the Colorado Supreme Court decision in *People v. Gabriesheski* (October 24, 2011), the OCR made recommendations to the Chief Justice to revise CJD 04-06 to define the client of the GAL/CLR as the best interests of the child, formalize the requirement that the GAL/CLR consider the child's position on relevant issues in determining what is in the child's best interests, and explicitly set forth the mandate that the GAL inform the court of each child's position as developmentally appropriate and consistent with the child's consent to such disclosure.



- In December 2015, the OCR made recommendations to the Chief Justice to further clarify GAL practice in D&N cases and establish comprehensive standards of practice in juvenile delinquency matters. The Chief Justice amendments to CJD 04-06 on January 1, 2016, reflect OCR's recommendations.

The OCR continually clarifies the practice standards, assesses attorneys' understanding of the standards, and evaluates whether these practice standards serve as the platform for OCR's programming and operations.

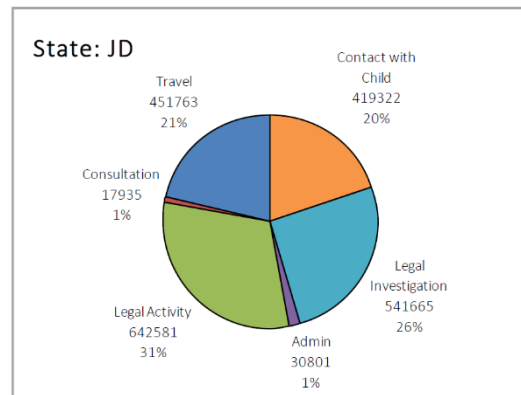
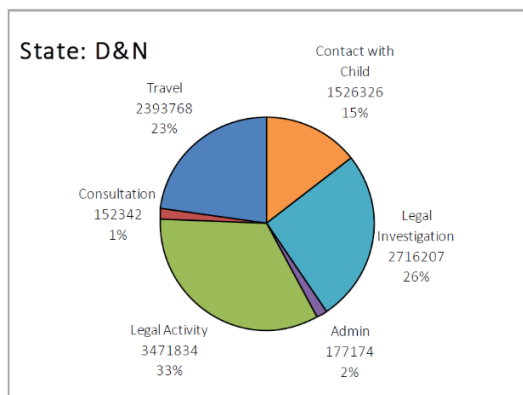
## II. *OCR's Contract Process and Ongoing Evaluation and Assessment of Attorney Services*

Each year, the OCR establishes lists of attorneys eligible for OCR appointments in each judicial district. The OCR compiles district lists through a comprehensive evaluation strategy, which consists of a statewide annual appraisal of existing attorney services, a tri-annual extensive contract application process, ongoing assessment and periodic audits of attorney activity, and a formalized complaint process. OCR does not automatically continue attorney eligibility for appointments.

### A. *Statewide Annual Appraisal Process.*

The OCR requires all attorneys to confirm compliance with CJD 04-06, disclose professional disciplinary history, and verify fulfillment of OCR training and malpractice insurance requirements. OCR staff manually reviews all attorney submissions for compliance and follows up with individual attorneys as needed.

OCR staff also reviews C.A.R.E.S. reports and billing averages to identify outliers in the amount of time spent on cases and key attorney activities such as contacts with children and front loading of services. OCR staff compiles attorney activity reports on a state-wide basis, for each judicial district, and for each individual attorney. The reports help OCR identify workload trends. The state-wide average cost per case during the first nine months of FY 16-17 was \$1,110. The charts below depict the categories in which attorneys' billed in D&N and JD cases across the state:



OCR attorney staff contacts attorneys as indicated by the C.A.R.E.S. reports to discuss potential issues and determine whether further action is necessary.

The OCR staff attorney assigned to the judicial district also personally contacts key judicial officers and court staff to identify any issues with the sufficiency or quality of the lists of attorneys identified as eligible for appointment and conducts in-person meetings with stakeholders on an as-needed basis.

Every year, the OCR distributes an evaluation survey to gather feedback on all attorneys who are providing GAL services. OCR sends the surveys to judicial officers, court administrators, court facilitators, departments of human/social services staff, CASA agencies, probation officers, and attorneys representing other parties in D&N and JD cases in each of Colorado's 22 judicial districts. This instrument measures perception and is voluntary. The OCR continually reviews the validity of the survey instrument and the questions posed as a mechanism for obtaining stakeholder feedback.

In FY 16-17, the OCR received 1197 survey responses concerning 223 attorneys; 344 responses were from judicial officers.

<b>Goal 1: Provide children a voice in the Colorado legal system through effective attorney services and advocacy.</b>								
<b>Key Measures</b> <b>Strongly Agree/Agree</b> <i>(respondents were allowed to answer "I don't know")</i>	<b>FY13-14</b> <b>N = 227</b> <b>Attorneys</b>	<b>FY14-15</b> <b>N = 221</b> <b>Attorneys</b>	<b>FY15-16</b> <b>N= 207</b> <b>Attorneys</b>	<b>FY16-17</b> <b>N = 223</b> <b>Attorneys<sup>1</sup></b>	<b>FY17-18</b>	<b>FY 18-19</b>	<b>FY 19-20</b>	
1. A. Attorney possesses relevant advocacy skills	<b>Target</b>	89%	90%	90%	90%	90%	90%	90%
	<b>Actual</b>	90%	92%	88%	91%			
1. B. Attorney possesses requisite knowledge	<b>Target</b>	87%	90%	90%	90%	92%	92%	92%
	<b>Actual</b>	90%	93%	88%	91%			
1. C. Attorney familiar with community services	<b>Target</b>	87%	90%	90%	90%	92%	92%	92%
	<b>Actual</b>	90%	91%	86%	90%			
1. D. Attorney attends all court hearings	<b>Target</b>	93%	93%	93%	93%	95%	95%	95%
	<b>Actual</b>	94%	95%	95%	94%			

<sup>1</sup> Data OCR reported previously included "do not know," "N/A," and "Not sure" responses, effectively reporting such answers as negative responses. Beginning in FY 16-17, OCR standardized the response as "unable to comment" and excluded all such responses from OCR calculations.

1. E. Attorney critically assesses department case & permanency plans	<b>Target</b>	75%	80%	80%	80%	82%	84%	86%
	<b>Actual</b>	83%	83%	76%	88%			

Combined with other objective information, the survey helps OCR identify potential training needs and practice issues.

## B. OCR's Tri-Annual Extensive Contract Application Process.

In FY 12-13, OCR instituted a tri-annual extensive contract evaluation process. Each year, the OCR evaluates attorneys in one-third of Colorado's 22 judicial districts. OCR's extensive evaluation consists of attorney application and appraisal information detailed above; interviews of children/youth, parents, and caregivers; structured court observations; review of a writing sample; expanded stakeholder feedback; and analysis of selected reports from C.A.R.E.S. Additionally, the OCR staff attorney assigned to the judicial district conducts meetings with key stakeholder groups in each of the districts scheduled for evaluation. Typically, the OCR meets with judicial officers and staff, CASA programs, and attorneys with existing contracts. The majority of these meetings are conducted in person. The OCR staff attorney assigned to the district meets with each existing contractor under evaluation to review the data collected during the evaluation, discuss any identified practice issues, and assess ongoing suitability for an OCR contract.

### [Interviews of children, parents, and caregivers](#)

OCR requires attorneys to provide contact information for three children/youth, parents, and caregivers involved in D&N cases. OCR developed and implemented a structured interview to solicit information regarding GAL practice on the case. The OCR contacts individuals in order to secure an interview of at least one representative from each category of case participants. In FY 16-17, OCR staff conducted 247 interviews of these important stakeholders concerning the 64 attorneys under evaluation.

### [Court Observations](#)

In FY 12-13, the OCR began conducting court observations in D&N cases in order to obtain first-hand knowledge regarding attorney courtroom performance. The OCR developed an instrument and trained OCR staff and interns to standardize documentation and data collection. The OCR capitalized on the opportunity to obtain data regarding youth participation in D&N cases. Youth participation data is relevant to the attorney evaluation, but is not a performance measure because of the individualized judgment and circumstances informing the child's level of participation at court hearings. The OCR expanded the observations in FY 13-14 to include JD cases in order to help refine OCR's expectations of attorneys serving in delinquency matters.

- The OCR conducted 287 court observations involving 480 children in FY 12-13 and 426 court observations involving 674 children in FY 13-14.
- In FY 14-15, attorneys practicing in seven rural districts were subject to the extensive evaluation process detailed above. These rural districts have few case filings and provided the OCR with fewer opportunities to conduct courtroom observations. OCR attorney staff, interns, and volunteers conducted 158 courtroom observations concerning 47 attorneys under evaluation. The OCR also conducted courtroom observations in judicial districts not subject to the extensive evaluation process in order to augment its data and better track trends. In all, OCR conducted 366 court observations involving 611 children/juveniles in FY 14-15.
- In FY 15-16, OCR conducted nearly 500 courtroom observations involving 74 attorneys and 813 children/youth.

In FY 16-17, OCR conducted 448 court observations involving 675 children/juveniles.

<b>Goal 1: Provide children a voice in the Colorado legal system through effective attorney services and advocacy.</b>								
<b>Key Measures</b>		<b>FY13-14</b>	<b>FY14-15</b>	<b>FY15-16</b>	<b>FY16-17</b>	<b>FY17-18</b>	<b>FY18-19</b>	<b>FY19-20</b>
<b>Number of Court Observations</b>		<b>N = 426</b>	<b>N = 366</b>	<b>N = 498</b>	<b>N=448</b>			
1. A. Average number of court observations per attorney under evaluation	<b>Target</b>	3	3	3	3	3	3	3
	<b>Actual</b>	3.7	3.24	4.92	5.43			
1. B. Appointed attorney appeared	<b>Target</b>	90%	92%	92%	92%	94%	95%	95%
	<b>Actual</b>	94.6%	89.9%	95%	97%			
1. C. Attorney provided current, independent information	<b>Target</b>	70%	75%	80%	85%	87%	89%	90%
	<b>Actual</b>	81%	81.1%	81%	80%			
1. D. Clearly stated a position	<b>Target</b>	85%	87%	90%	90%	92%	94%	95%
	<b>Actual</b>	91%	90.9%	85%	89%			
1. E. Attorney stated position of child 5 yrs and older (observers are not able to determine whether developmentally appropriate and according to child's wishes)	<b>Target</b>	30%	40%	40%	40%	50%	51%	52%
	<b>Actual</b>	43.75%	51.23%	51.16%	61%			

### C. Multidisciplinary Law Office Pilot Project Evaluation

Consistent with its legislative mandate, the OCR explored the MDLO as a model of providing legal representation. The OCR's contracts with the MDLOs contained enhanced requirements, such as more frequent contact with children than required by practice standards. The OCR established specific requirements for office structure and performance through a Statement of Work. OCR compensated the offices on a flat fee basis and required the offices use CARES for time keeping and case management. The OCR conducted its MDLO evaluation in two phases between January 1, 2011 and June 30, 2017.

**Phase I:** The initial assessment period was January 1, 2011 through June 30, 2014. In FY 12-13, OCR partnered with the University of Denver Graduate School of Social Work to evaluate the effectiveness of the MDLO as a model of delivering legal services to children in juvenile court proceedings. Due to the preliminary nature of the evaluation, the study focused on understanding the functioning of the MDLOs and indicators of whether the model enhanced GAL practice in Arapahoe, Denver, and El Paso counties. OCR data indicates that MDLOs spend more time per case on average and engage in more contact with children than independent contractors. While the multidisciplinary approach allows the dedication of additional hours at a lower cost than would be incurred if all activities had been billed at the attorney rate, the increased investment of time did result in a higher average cost per case than the amount billed by independent contractors. A key question for the OCR was whether and how this increased investment of time and dollars impacts outcomes for children. Few conclusions could be drawn from the DU study, and the OCR extended the pilot in order to further evaluate the MDLO model of representation.

**Phase II:** The OCR developed additional measures and continued to conduct cost analyses to complete its assessment of the MDLO model in FY 16-17. Between July 1 2014 and June 30, 2017, the OCR's assessment of the value of the MDLOs focused on the following question: *How do a law office environment and multidisciplinary approach to case management contribute to improving delivery of best interests legal representation to children?* The evaluation examined the relationship between the activities outlined in the MDLO Statement of Work and projected outcomes including predictable costs, heightened oversight and accountability, improved case management, consisted presentation to court, and amplified child's voice. The evaluation analyzed the impact of the MDLO structure on attorney performance, measured through comparative analysis of attorney activities, court observations, case file reviews, and stakeholder perceptions. It also compared case outcomes for children appointed independent contractor GALs to case outcomes for children appointed MDLO GALs in the same counties.

While the MDLOs spent significantly more time on case-related work and required an additional investment of state dollars into their office structure, comparative analysis of

attorney performance and case outcomes data did not consistently favor the MDLO office structure. As an example,

- Cost: the average cost per D&N appointment for the MDLOs in Denver and Arapahoe counties was higher than independent contractors.
- Youth in Court: MDLOs had a lower rate of youth attendance at benchmark and permanency planning hearings for MDLO-represented youth than independent contractors.
- File Review: A comparative review of 210 files in the MDLO counties performed by the National Counsel of Juvenile and Family Court Judges revealed no significant differences in key indicators of attorney advocacy or case outcomes.

The MDLO model of practice did not yield many of the projected outcomes as compared to independent contractors across the state or comparison independent contractors in MDLO counties. Judicial officers, however, recognize the MDLOs as an effective structure for training and supervising new attorneys. Given the increased cost per appointment and lack of statistically significant case outcomes and attorney performance, the MDLO structure as implemented through the pilot offices is not a sustainable model of providing GAL representation in Colorado.

The OCR is considering next steps based on this evaluation, including:

- Establishing a system for providing mentorship to new attorneys and direct monitoring in the field.
- Exploring ways to make social workers accessible to more GALs and to utilize social workers to enhance best interest representation without duplicating efforts.
- Building on its efforts to establish a systematic process for obtaining youth feedback.

The full report, *OCR's Evaluation of Multidisciplinary Law Office Pilot Project*, is available at <http://www.coloradochildrep.org/wp-content/uploads/2017/03/MDLO-Report-Full-Large.pdf>.

#### **D. Ongoing Monitoring and Periodic Audits of Attorney Activity.**

Through OCR C.A.R.E.S., OCR runs periodic reports of attorney activity on key performance indicators, such as timely visits with children, children's appearance at Permanency Planning hearings, and GAL initial investigation activity. Any issues identified through these initial reports leads to a more in-depth examination of an attorney's activities in cases in order to determine whether the report accurately reflects the attorney's practice and CJD requirements. For example, the CJD exempts a 30-day visit if the child is placed more than 100 miles outside of the jurisdiction of the court. OCR's follow-up indicates that the C.A.R.E.S.'s 30-day visit report must be revised due to the CJD exception, incomplete data entry, and inputting errors.



A long-standing goal of the OCR is to obtain direct feedback from children and youth receiving GAL services. During its MDLO evaluation, OCR staff developed a youth feedback survey and youth focus group structured interview to gather this important information. Obtaining youth participation in both was a significant challenge during the MDLO evaluation. OCR staff refined these instruments and used the youth feedback survey at a spring 2017 youth event. OCR staff is striving to “meet youth where they are” and will further develop protocols in order to obtain children and youth feedback across the state. OCR believes the data collected from youth will help it further its mission and performance goals.

### **E. Recruitment and Retention of Qualified Attorneys**

OCR struggles to meet the needs of several judicial districts, particularly in rural areas. In some districts, the loss of just one attorney would result in a severe attorney shortage leaving the OCR without an attorney available for one-third to three-fourths of the appointments; some of the attorneys on the OCR’s current lists in these districts have indicated an intent to retire in the near future. The OCR actively recruits attorneys in a number of ways, including holding trainings in rural districts which are open to members of the local bar and obtaining names of potential contractors from local judicial officers and stakeholders. The OCR informs local and specialty bar associations of its contracting period. Despite recruiting efforts, the OCR is, at times, unable to find qualified practicing attorneys living in the district in order to augment the number of attorneys available for appointments in these complex and specialized cases. As an example, in the 13<sup>th</sup> Judicial District, the OCR contracts with attorneys in neighboring judicial districts which requires travel at an increased cost to the state.

In FY 16-17, the OCR received submissions from 314 attorneys interested in contracting with the OCR during FY 17-18. One Hundred Five of the attorneys were new applicants who had not previously contracted with the OCR.

### **F. OCR’s Formalized Complaint Process**

One of the OCR’s first activities was to establish a formal complaint process. This process remains in existence and serves as another mechanism for ensuring that attorneys under contract with the OCR are meeting performance expectations. Complaint forms are available on the OCR’s website and paper copies are available upon request. While the specifics of each investigation vary depending on the nature of the complaint, the investigation typically involves a review of the court’s on-line file, C.A.R.E.S. file and other relevant documents; interviews of the attorney and the complainant; and interviews of other stakeholders and/or witnesses, including parents, relatives, judicial staff, county attorneys, parents’ counsel, caseworkers, and placement providers, as appropriate. The OCR confirms attorney compliance with practice standards during the complaint investigation.



Founded complaints lead to further investigation of the attorney's performance. While each circumstance is unique, the OCR typically engages in an audit of the attorney's work in order to determine whether the founded complaint was an anomaly or indicative of a pattern of poor performance. When warranted, the OCR places the attorney on a corrective action plan, limits eligibility for appointments, or terminates the attorney's contract. The OCR also determines whether it is necessary to remove the attorney from existing appointments and consults with the court in such circumstances. The OCR closes each complaint by providing a formal resolution of the investigation to the complaining party and the attorney.

In FY 16-17, OCR received 40 complaints. Two complaints concerned attorney appointments not subject to OCR oversight; one complaint was withdrawn. Four complaints remain under investigation. The OCR founded eight complaints.

### ***III. OCR's Litigation Support Services and Training Program***

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OCR's litigation support and training programs serve two key functions. First, litigation support and training ensure continuous quality improvement of attorney services provided to Colorado's children. When representing children's interests, lawyers must, in addition to their legal skills, be able to draw upon interdisciplinary knowledge from such pertinent fields as psychology, sociology, social work, and medicine. Through its litigation support and training, the OCR ensures that every child in Colorado who is in need of an attorney is represented by an attorney who has considerable sophistication in the law and issues unique to children. Second, well-supported and well-trained attorneys are efficient attorneys. OCR's litigation support and training programs save attorneys considerable time in actual cases.

In FY 16-17, OCR made progress on its goal of cultivating a learning and practice environment focused on three areas:

1. **Accessibility:** OCR's goal is to modify the OCR website as a platform that will support a learning and practice community through improved accessibility and availability of resources that are well organized and easy to find.
2. **Community:** OCR's goal is to provide a community for contract attorneys to partner in shared learning and practice to support excellence in best interests legal representation for Colorado children and youth.
3. **Human Capital:** OCR's goal is to cultivate a learning and practice environment for OCR attorneys that uses the collective competencies, expertise, and other intangible assets of our contract attorneys and other key partners in the child welfare and juvenile justice community.

## A. Litigation Support Services

OCR's litigation support program includes a listserv, a motions bank, quarterly newsletters containing summaries of recent cases and other developments in juvenile law, and timely outreach and communication to attorneys. OCR attorney staff developed and will continue to update the Guided Reference in Dependency (GRID), Colorado's first comprehensive advocacy guide for attorneys in D&N proceedings. OCR attorney staff also serves as a resource to attorneys; assisting them with questions on individual cases and linking them to other attorneys with expertise in particular subject areas. In addition, OCR provides attorneys with necessary independent experts and other resources as justified in individual cases.

**OCR's listserv** provides a robust forum for attorneys to pose questions about any aspect of a case, from information about a particular child placement agency or service provider to technical legal issues pending before the court. OCR also uses the listserv to communicate new case processes and inform contractors of developments in the field. Every attorney is required to be a member of the OCR listserv. In FY 15-16, OCR launched an enhanced listserv service which improves security, eases maintenance, and customizes options for users. The improved listserv features a searchable archive of messages and separates general discussion topics from OCR announcements.

**OCR's website** contains information about OCR, an Attorney Center that maintains a password-protected motions bank for attorneys, and a resource center. OCR contractors may easily access OCR's billing policies and procedures on its website. The website also provides links to state and national organizations and resources for use by the general public. In FY 15-16, OCR conducted a comprehensive review of its motions bank and began updating the materials available. In FY 16-17, OCR developed a plan to upgrade the motions available on the website and improve its website platform in order to improve quality and accessibility.

<b>Goal 2: The OCR will optimize efficiencies in attorney practice and billing.</b>							
<b>Key Measures</b>		<b>FY 14-15</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>FY 19-20</b>
<b>2. A. Newsletters published per year</b>	<b>Target</b>	4	4	4	4	4	4
	<b>Actual</b>	4	4	4	4		
<b>2. B. Publish update of GRID</b>	<b>Target</b>	Publish Update	Secure funding	Publish Update	Research Update	Publish Update	Research update
	<b>Actual</b>	Began drafting & sought funding	Published pocket part with updates	Completed FY 15-16	Secured grant funding for updating		
<b>2. C.</b>	<b>Target</b>	Investigate means for measuring	Enhance listserv	Investigate means for measuring	Develop metrics	Establish baseline	Report data

<b>Measure listserv usage</b>	<b>Actual</b>	Google Analytics appears promising	Enhanced listserv	Investigating			
<b>2. D. Motions bank</b>	<b>Target</b>	Investigate means for measuring	Develop & implement measuring plan	Update materials & improve attorney access	Implement Learning & Practice Environment plan	Establish baseline	Report data
	<b>Actual</b>	Investigation under way	Review & Update materials	Formulated plan for enhanced learning & practice environment			

## B. Training Program

Through its training program, the OCR provides ongoing, meaningful training tailored to the specialized needs of attorneys representing children. This program is not only mandated by OCR's enabling legislation, but also by federal law requiring states receiving child welfare funds to certify that each GAL appointed in a D&N proceeding has received training appropriate to the role.

The OCR receives a legislative appropriation each year for training and litigation support to its attorneys. OCR also receives reimbursement for certain training activities from the federal Title IV-E program. Grant funding from the Children's Justice Act has also provided additional opportunities for OCR training and projects.

The OCR's training program is structured yet flexible; while a key number of target trainings take place each year covering attorney core competencies, OCR offers increased training opportunities when important legal, social science, or other developments warrant timely dissemination of information. Historically the OCR sponsors at least two statewide conferences for its attorneys and other stakeholders, provides ongoing training through brown bag sessions and webinars, and collaborates with other entities to maximize cross-systems training opportunities. FY16-17 training highlights include:

1. Core competencies I and II training for new attorneys in July and February.
2. OCR Fall Conference, Lafayette in September.
3. OCR ICWA Webinar in January.
4. OCR partnered with the National Institute for Trial Advocacy to provide trial skills training to contract attorneys in April.
5. OCR provided scholarships to national conferences of import to our mission and work offered by the American Bar Association Center on Children and the Law and the National Association of Counsel for Children.

OCR requires attorneys eligible for appointment in D&N cases to complete 10 hours of OCR sponsored trainings annually. Attorneys must report compliance with the training

requirement in March of each year. OCR staff contact attorneys who indicate they have not completed the training hours to discuss the current status of their compliance with OCR's training requirements, identify barriers to the attorney's compliance, review means of insuring compliance, and, if necessary, provide a deadline for the attorney to comply.

<b>Goal 3: The OCR will ensure attorneys remain current in state and federal law and regulations, social science research, and evidence-based services.</b>							
<b>Key Measure</b>		<b>FY 14-15</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>FY 19-20</b>
<b>3. A. Training hours OCR offered</b>	<b>Target</b>	42	42	42	42	42	42
	<b>Actual</b>	103	82	42.5			
<b>3. B. Training Hours available online</b>	<b>Target</b>	120	150	250	150	150	150
	<b>Actual</b>	164	235	150 hours archived following comprehensive assessment.			
<b>3. C. Core Competency Reflected in OCR Training Curricula</b>	<b>Target</b>	NA	NA	33%	33%	33%	33%
	<b>Actual</b>			61%			
<b>3. G. Attendee survey: Rated fall conference "Excellent/Good"</b>	<b>Target</b>	85%	87%	88%	90%	90%	90%
	<b>Actual</b>	No data available for NACC conference	94.45%	90%			
<b>3. H. Attendee survey: "Satisfied/Very Satisfied" with fall conference materials</b>	<b>Target</b>	85%	87%	88%	90%	90%	90%
	<b>Actual</b>	No data available for NACC conference	98.87%	91%			
<b>3. F. Attendee survey: "Satisfied/Very Satisfied" with fall conference information</b>	<b>Target</b>	90%	92%	92%	94%	95%	95%
	<b>Actual</b>	No data available for NACC conference	97.78%	96%			

#### IV. *Establishment of Fair and Realistic Compensation Rates for Attorney Services*

It is the statutory mandate of the OCR to “establish fair and realistic rates of compensation” in order to enhance the legal representation of children. § 13-91-105, C.R.S. Fair and realistic compensation is essential to maintaining a pool of dedicated and skilled attorneys and to allowing adequate time for effective case investigation and legal advocacy. The OCR has worked with the General Assembly and Joint Budget Committee to achieve this goal by: eliminating the flat fee payment structure and converting to a statewide hourly payment structure; eliminating the discrepancy between in-court and out-of-court rates; and bringing the rate of compensation closer to a fair and realistic rate. The OCR’s hourly rate stood stagnant at \$65/hour for several years after it went into effect in FY 08-09. The OCR requested and received a rate increase for contract attorneys in its FY 14-15 budget request.

The OCR has long recognized that its El Paso County GAL Office staff are not paid as much as others in the public sector. The OCR participated in an attorney salary survey to assess the parity of the State’s compensation of the El Paso GAL Office attorney staff as compared with other public sector attorney jobs as of FY 12-13. The study found that OCR attorney staff salary ranges and actual salaries are significantly misaligned with the market. The OCR compared non-attorney salaries to those within the state system and discovered support staff salaries were also misaligned with the market. The OCR requested and received a salary adjustment in its FY 14-15 budget request and appreciates the common policy adjustments approved by the legislature in FY 16-17.

<b>Goal 1: Provide children a voice in the Colorado legal system through effective attorney services and advocacy.</b>							
<b>Key Measures</b>		<b>FY 14-15</b>	<b>FY 15-16</b>	<b>FY 16-17</b>	<b>FY 17-18</b>	<b>FY 18-19</b>	<b>FY 19-20</b>
<b>1. L. OCR will pay attorneys a rate of compensation commensurate to other public sector attorneys.</b>	<b>Target</b>	\$75/hr	\$75/hr	\$75/hr	Assess feasibility of further adjustment	Assess feasibility of further adjustment	Assess feasibility of further adjustment
	<b>Actual</b>	\$75/hr	\$75/hr	\$75/hr			
<b>1. M. OCR employee salaries will be commensurate to that of other public sector employees</b>	<b>Target</b>	Seek 10-15% correction of misalignment	Determine whether further adjustments are required	Determine whether further adjustments are required	Determine whether further adjustments are required	Determine whether further adjustments are required	Determine whether further adjustments are required
	<b>Actual</b>	General Assembly approved	No adjustments	Common policy adjustments			