

# ***Committee for Public Counsel Services Children and Family Law Program***

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## **Overview - Committee for Public Counsel Services**

The Committee for Public Counsel Services (CPCS) is the state agency in Massachusetts responsible for providing legal services to the poor in civil and criminal matters where the laws of the Commonwealth or the state or federal constitution mandate that counsel be provided. See Mass. G.L. c. 211D. The four major substantive practice areas covered by CPCS are (1) criminal defense, (2) juvenile delinquency, (3) mental health, and (4) child welfare. Trial and appellate work are included in each practice area.

In each practice area, CPCS uses a mixed model to provide representation to clients, using both staff attorneys and private attorneys on assigned counsel panels to fulfill its statutory mandate. Staff attorneys employed by CPCS handle a small percentage of the cases. But in the vast majority of cases, private attorneys who are trained and certified by CPCS and who serve on its assigned counsel panels provide representation. There are separate qualification and certification procedures for each panel. Over 2,500 private attorneys state-wide serve on assigned counsel panels.

## **Children and Family Law Program**

CPCS' Children and Family Law (CAFL) Program provides legal representation to children and indigent parents in child welfare matters. The cases within the purview of CAFL include care and protection proceedings, children in need of services cases (CHINS) (status offenses), actions to terminate parental rights, state agency-sponsored guardianships, and any other proceeding regarding child custody where the Department of Social Services (DSS) is a party or where the court is considering granting custody to DSS.

In Massachusetts, both children and indigent parents have a right to representation by counsel in child welfare cases. See G. L. c. 119, § 27 and Dep't of Public Welfare v. J.K.B., 379 Mass. 1 (1979). By statute, children are represented in child welfare cases by attorneys, not guardians ad litem. (Guardians ad litem are occasionally assigned by the courts for specific, limited roles; the courts, not CPCS, select, oversee and pay guardians ad litem.) CAFL attorneys have a caseload that includes children and parents.

## **Children and Family Law Offices**

The CAFL Program has twenty-seven staff attorneys working in six locations *in* the Commonwealth - Boston, Brockton, Lowell, Salem, Springfield and Worcester. (A

Pittsfield office is anticipated in spring 2007.) The staff offices are collegial workplaces where skilled litigators effectively advocate for their child and parent clients. A staff social worker assists attorneys in the preparation of their cases by helping the attorneys understand family problems and individual clinical issues, making needs assessments, and providing, referrals to services.

The starting salary for new staff attorneys is \$45,540. Benefits are available to staff attorneys as employees of the Commonwealth of Massachusetts. The staff offices are small, and hiring needs vary from year to year. Most attorneys hired are recent law school graduates who are hired for entry-level positions. All persons hired as CAFL staff attorneys are employed on a probationary basis for one year. CPCS is committed to hiring and retaining a racially and ethnically diverse staff.

All staff attorneys must complete the CAFL trial panel certification training - described below - at Massachusetts Continuing Legal Education (MOLE) at the beginning of their employment. Each office provides less experienced attorneys with extensive initial supervision and opportunities to observe their more experienced associates in court. Each staff attorney must attend a minimum of 8 hours of continuing legal education annually. The CAFL Program also provides training and support for more experienced attorneys.

#### **Assigned Counsel - CAFL Private Attorneys**

Admission onto the CAFL private counsel trial and appellate panels is by application only. Trainings for the trial panel are offered in the spring (at MOLE in Boston), summer (in western Massachusetts) and fall (at MCLE in Boston). The training consists of three days of substantive law training and two days of intensive trial skills training. This program has been customized for the practice of child welfare law. To be certified for the CAFL appellate panel, attorneys must complete a one-day appellate training program and either (a) have trial panel certification or (b) attend the three-day substantive law portion of the trial panel training program.

Upon completion of the training, all newly-certified private CAFL attorneys are assigned to an experienced attorney for mentoring and support. The mentor helps introduce the "mentee" to court personnel, court rules and practice, and substantive law. Participation in the mentor program runs from the assignment of the mentee's first case for at least 18 months until such time as the mentee develops proficiency in handling child welfare matters.

Regional Coordinators throughout the state and attorneys in the CAFL Administrative Office in Boston are also available to provide advice and technical assistance to all CAFL attorneys. In addition, the CAFL Administrative Office produces a quarterly newsletter summarizing developments in this practice area and recent appellate cases.

By statute, CPCS is responsible for ensuring the quality of legal representation. See G.L. c..211D, §§ 4-10. CPCS has developed "Performance Standards Governing the

Representation of Children and Parents in Child Welfare Cases," which serve as a blueprint for lawyers handling these complicated matters.

There are other CPCS policies as well. For example, panel attorneys may not have more than 75 open cases at one time, must take 8 hours of continuing legal education each fiscal year, and may not bill CPCS for more than 1800 hours of service each fiscal year. All CPCS policies and procedures are included in the "Assigned Counsel Manual," accessible on the CPCS web site at < <http://mass.gov/cpc> s>.

Private attorneys are paid at the rate of \$50.00/hour for all child welfare trial and appellate work. The legislature sets the compensation rates and appropriates funds for the payment of private counsel. CPCS administers the system for paying attorneys on its panels.

### **Law Student Internship, Co-op and Independent Study Opportunities**

Law students work closely with staff at the CAFL Administrative Office in Boston, doing research and writing on a variety of child welfare, trial and appellate issues. Because the field of child welfare relies heavily on medical and social science research, law students may also do research and writing on these subjects. Law students will observe hearings at the Boston Juvenile Court (or other trial courts, depending on where staff members have active cases), and arguments at the Appeals Court and Supreme Judicial Court if arguments in child welfare cases are scheduled during the students' placement at CPCS. Independent study students may also work on more substantial research projects.

CAFL staff will closely supervise students and provide feedback on their work, to ensure that students have one or more writing samples by the close of the internship/co-op. CAFL staff will also work closely with law school supervisors to ensure that independent study students satisfy all academic requirements for credit.

*For more information on CPCS and the Children and Family Law Program, or to download applications for our assigned counsel panels, please visit our website at: <<http://mass.gov/cpcs>>.*