

1                                   **Iowa Standards of Practice for**  
2                                   **Attorneys Representing Parents in Juvenile Court**  
3

4 The parent’s attorney shall:  
5

6 **General:**

- 7
- 8 1. Adhere to all relevant training and mentoring requirements before  
9 accepting a court appointment to represent a client in a child welfare  
10 case. Acquire sufficient working knowledge of all relevant federal and  
11 state laws, regulations, policies, and rules.  
12
  - 13 2. Avoid continuances and work to reduce delays in court proceedings  
14 unless there is a strategic benefit for the client.  
15
  - 16 3. Communicate regularly with other professionals in the case.  
17

18 **Relationship with the Client:**

- 19
- 20 4. Establish and maintain a working relationship with the client.  
21 Communicate with the client prior to the day of hearing and when  
22 apprised of emergencies or significant events.  
23
  - 24 5. Advocate for the client’s goals. Empower the client to direct the  
25 representation and make informed decisions.  
26
  - 27 6. Understand and protect the client’s rights to information and decision-  
28 making while the child is placed out of the home.  
29
  - 30 7. Act in accordance with the duty of loyalty owed to the client while  
31 adhering to all laws and ethical obligations concerning confidentiality.  
32 Avoid potential conflicts of interest that would interfere with the  
33 competent representation of the client. Comply with all other Iowa Rules  
34 of Professional Conduct.  
35
  - 36 8. Provide the client with all relevant contact information. Establish a  
37 system that promotes regular client–attorney contact.  
38
  - 39 9. Communicate with the client in a manner that promotes advocacy and  
40 adequate preparation to support the client’s position.  
41
  - 42 10. Take reasonable and necessary steps to locate and communicate with  
43 absent or incarcerated clients. Develop representation strategies.  
44 Establish a plan for the client’s participation in case-related events.  
45

- 1 11. Communicate with and counsel the client about all matters pertaining to  
2 the case, including any financial implications, to promote and protect the  
3 client's interest.  
4
- 5 12. Investigate and consider the client's background and its impact on the  
6 case. Act in a culturally-competent manner and with due regard to  
7 disabilities or unique circumstances of the client. Advocate for  
8 appropriate supportive services with the child welfare agency and court.  
9

10 **Investigation & Court Preparation:**

- 11
- 12 13. Conduct an independent investigation at every stage of the proceeding as  
13 reasonable and necessary.  
14
- 15 14. Use effective discovery methods according to the Iowa Rules of Juvenile  
16 Procedure.  
17
- 18 15. Consult with the client to develop a case theory and strategy. Explain  
19 the statutory timeline for the case.  
20
- 21 16. Timely file appropriate pleadings, motions, and briefs.  
22
- 23 17. Engage in multidisciplinary case planning and advocate for appropriate  
24 services and high quality family interaction.  
25
- 26 18. Effectively participate with the client in family team meetings, mediation,  
27 and other negotiations.  
28
- 29 19. Thoroughly prepare the client in advance for all hearings, meetings, and  
30 other case events.  
31
- 32 20. Identify, locate, and prepare necessary lay and expert witnesses. Prepare  
33 for cross-examination and, when permissible, interview those witnesses.  
34
- 35 21. Review court orders to ensure accuracy and clarity. Review orders with  
36 the client. Take reasonable steps to ensure the client complies with  
37 court orders.  
38
- 39 22. Continually evaluate whether the case should be reviewed by the court  
40 prior to the next scheduled hearing date to ensure case progress.  
41
- 42 23. Timely file reasonable and necessary post-hearing motions.  
43

44 **Appeal:**

- 45
- 46 24. Consider and discuss appeal options and deadlines with the client.  
47

1 25. Timely file appeal documents if the client decides to appeal. Adhere to  
2 the Iowa Rules of Appellate Procedure.

3

4 26. Timely review the ruling and discuss its implications with the client.

5

6 27. Consider and discuss further review options.

7

8 **These standards do not add obligations to the Iowa Rules of Professional**  
9 **Conduct but, like the comments to those rules, provide guidance for**  
10 **practicing in compliance with the rules. In the event of any conflict**  
11 **between these standards and a rule of professional conduct, the**  
12 **requirements of the rule shall take precedence.**

13

1 **Commentary to the Iowa Standards of Practice for**  
2 **Attorneys Representing Parents in Juvenile Court**  
3

4 **The parent’s attorney shall:**  
5

6 **General:**

- 7
- 8 **1. Adhere to all relevant training and mentoring requirements**  
9 **before accepting a court appointment to represent a client in a**  
10 **child welfare case. Acquire sufficient working knowledge of all**  
11 **relevant federal and state laws, regulations, policies, and rules.**  
12

13 Commentary

14 As in all areas of law, it is essential that attorneys learn the  
15 substantive law as well as local practice. A client’s fundamental  
16 liberty interest in the care and custody of his or her child is at  
17 stake, and the attorney must be adequately trained to protect this  
18 interest. The attorney must know enough about all relevant laws  
19 to vigorously advocate for the client’s interests. Additionally, the  
20 attorney must be able to use procedural, evidentiary, and  
21 confidentiality laws and rules to protect the client’s rights  
22 throughout court proceedings.  
23

24 It is essential for the attorney to read and understand all state  
25 laws, policies, and procedures regarding child abuse and neglect.  
26 In addition, the attorney must be familiar with applicable laws to  
27 recognize when they are relevant to a case and research if  
28 necessary. Examples of relevant laws include but are not limited  
29 to:  
30

- 31 • Titles IV–B and IV–E of the Social Security Act, including the  
32 Adoption and Safe Families Act (ASFA), 42 U.S.C. §§ 620–  
33 679 and the ASFA Regulations, 45 C.F.R. Parts 1355, 1356,  
34 1357
- 35 • Child Abuse Prevention Treatment Act (CAPTA), P.L.108–36
- 36 • Indian Child Welfare Act (ICWA) 25 U.S.C. §§ 1901–1963, the  
37 ICWA Regulations, 25 C.F.R. Part 23, and the Guidelines for  
38 State Courts: Indian Child Custody Proceedings, 44 Fed.  
39 Reg. 67, 584 (Nov. 26, 1979)
- 40 • State Indian Child Welfare Act laws
- 41 • Multi-Ethnic Placement Act (MEPA), as amended by the  
42 Inter-Ethnic Adoption Provisions of 1996 (MEPA-IEP) 42  
43 U.S.C. § 622 (b)(9) (1998), 42 U.S.C. § 671(a)(18) (1998), 42  
44 U.S.C. § 1996b (1998)
- 45 • Interstate Compact on Placement of Children (ICPC)
- 46 • Foster Care Independence Act of 1999 (FCIA), P.L. 106–169

- 1 • Individuals with Disabilities Education Act (IDEA), P.L. 91–
- 2 230
- 3 • Family Education Rights Privacy Act (FERPA), 20 U.S.C. §
- 4 1232g
- 5 • Health Insurance Portability and Accountability Act of 1996
- 6 (HIPPA), P.L., 104–192 § 264, 42 U.S.C. § 1320d–2 (in
- 7 relevant part)
- 8 • Public Health Act, 42 U.S.C. Sec. 290dd–2 and 42 C.F.R.
- 9 Part 2
- 10 • Immigration laws relating to child welfare and child custody
- 11 • State laws and rules of juvenile procedure
- 12 • State laws and rules of evidence
- 13 • State laws and rules of civil procedure
- 14 • State laws and rules of criminal procedure
- 15 • State laws concerning privilege and confidentiality, public
- 16 benefits, education, and disabilities
- 17 • State laws and rules of professional responsibility or other
- 18 relevant ethics standards
- 19 • State laws regarding domestic violence
- 20 • State domestic relations laws

21

22 **2. Avoid continuances and work to reduce delays in court**

23 **proceedings unless there is a strategic benefit for the**

24 **client.**

25

26 Commentary

27

28 The Iowa Supreme Court has established that juvenile court cases

29 take priority over all other cases with the exception of civil

30 commitments and domestic abuse cases. (See Iowa Supreme

31 Court Supervisory Order.)

32

33 The attorney should not request continuances unless there is an

34 emergency or it benefits the client’s case. If continuances are

35 necessary, the attorney should request the continuance in writing,

36 as far as possible in advance of the hearing, and should request

37 the shortest delay possible, consistent with the client’s interests.

38 The attorney should object to repeated or prolonged continuance

39 requests by other parties if the continuance would harm the client.

40

41 Delaying a case often increases the time a family is separated, and

42 can reduce the likelihood of reunification. Appearing in court often

43 motivates parties to comply with orders and cooperate with

44 services. When a judge actively monitors a case, services are often

45 put in place more quickly, visitation may be increased or other

46 requests by the client may be granted. If a hearing is continued

1 and the case is delayed, the client may lose momentum in  
2 addressing the issues that led to the child’s removal or the client  
3 may lose the opportunity to prove compliance with case plan goals.  
4 Additionally, the Adoption and Safe Families Act (ASFA) timelines  
5 continue to run despite continuances.  
6  
7

8 **3. Communicate regularly with other professionals in the**  
9 **case.**

10  
11 Commentary  
12

13 Communication with others is necessary to ensure the client is  
14 involved with key aspects of the child’s life. This requires open and  
15 ongoing communication with attorneys of record, pro se litigants,  
16 and any guardian ad litem (GAL). Similarly, the attorney should  
17 communicate with the relatives, caseworker, foster parents, court  
18 appointed special advocate (CASA) and service providers to learn  
19 about the client’s progress and their views of the case, as  
20 appropriate. Rules of professional ethics govern contact with  
21 represented and unrepresented parties.  
22

23 The attorney should have open lines of communication with the  
24 attorney(s) representing the client in related matters such as any  
25 criminal, protection from abuse, private custody, or administrative  
26 proceedings to ensure that probation orders, protection from abuse  
27 orders, private custody orders, and administrative determinations  
28 do not conflict with the client’s goals in the abuse and neglect case.  
29

30 **Relationship with the Client:**

31  
32 **4. Establish and maintain a working relationship with the**  
33 **client. Communicate with the client prior to the day of**  
34 **hearing and when apprised of emergencies or significant**  
35 **events.**

36  
37 Commentary  
38

39 Gaining the client’s trust and establishing ongoing communication  
40 are two essential aspects of representing the client. The client may  
41 feel angry and believe that all of the attorneys in the system work  
42 with the child welfare agency and against that client. The attorney  
43 must take care to distinguish him or herself from others in the  
44 system so the client can see that the attorney serves the client’s  
45 interests. The attorney should be mindful that parents often feel



1 attorney's responsibility to counsel the client and help the client  
2 understand his or her rights and responsibilities and try to assist  
3 the client in carrying them out.  
4

5 The attorney must explain to the client the decision-making  
6 authority that remains with the client and that which lies with the  
7 child welfare agency while the child is in foster care. The attorney  
8 should seek updates and reports from any service provider working  
9 with the child or the family or help the client obtain information  
10 about the child's safety, health, education, and well-being when  
11 the client desires. Where decision-making rights remain, the  
12 attorney should assist the client in exercising his or her rights to  
13 continue to make decisions regarding the child's medical, mental  
14 health, and educational services. If necessary, the attorney should  
15 intervene with the child welfare agency, provider agencies, medical  
16 providers, and the school to ensure the client has decision-making  
17 opportunities. This may include seeking court orders when the  
18 client has been left out of important decisions about the child's life.  
19  
20

21 **7. Act in accordance with the duty of loyalty owed to the**  
22 **client while adhering to all laws and ethical obligations**  
23 **concerning confidentiality. Avoid potential conflicts of**  
24 **interest that would interfere with the competent**  
25 **representation of the client. Comply with all other Iowa**  
26 **Rules of Professional Conduct.**

27  
28 Commentary  
29

30 Attorneys must understand and adhere to ethical obligations and  
31 all confidentiality laws, including chapter 232 of the Iowa Code.  
32 The attorney must fully explain to the client the advantages and  
33 disadvantages of choosing to exercise, partially waive, or waive a  
34 privilege or right to confidentiality. Consistent with the client's  
35 interests and goals, the attorney must seek to protect from  
36 disclosure confidential information concerning the client.  
37

38 Confidential information contained in a client's substance-related  
39 disorder treatment records, domestic violence treatment records,  
40 mental health records, and medical records is often at issue in  
41 abuse and neglect cases. Improper disclosure of confidential  
42 information early in the proceeding may have a negative impact on  
43 the manner in which the client is perceived by the other parties  
44 and the court. For this reason, it is crucial for the attorney to  
45 advise the client promptly as to the advantages and disadvantages  
46 of releasing confidential information, and for the attorney to take

1 whatever steps necessary to protect the client’s privileges or rights  
2 to confidentiality.  
3

4 The attorney must not represent multiple parties if their interests  
5 differ. In most cases, attorneys should avoid representing both  
6 parents in an abuse or neglect case. In situations involving  
7 allegations of domestic violence the attorney should never  
8 represent both parents. In the rare case in which an attorney,  
9 after careful consideration of potential conflicts, may represent  
10 both parents, it should only be with their informed consent. Even  
11 in cases in which there is no apparent conflict at the beginning of  
12 the case, conflicts may arise as the case proceeds. If this occurs,  
13 the attorney might be required to withdraw from representing one  
14 or both parents. This could be difficult for the clients and delay  
15 the case. Other examples of potential conflicts of interest that the  
16 attorney should avoid include representing multiple fathers in the  
17 same case or representing parties in a separate case who have  
18 interests in the current case.  
19

20 **8. Provide the client with all relevant contact information.**  
21 **Establish a system that promotes regular client-**  
22 **attorney contact.**  
23

24 Commentary  
25

26 The attorney should ensure the client understands how to contact  
27 the attorney and that the attorney wants to hear from the client on  
28 an ongoing basis. The attorney should explain that even when the  
29 attorney is unavailable, the client should leave a message. The  
30 attorney must respond to client messages in a reasonable time  
31 period. The attorney and client should establish a reliable  
32 communication system that meets the client’s needs. The attorney  
33 should be aware of the client’s circumstances, such as whether the  
34 client has access to a telephone, and tailor the communication  
35 system to the individual client. For example, it may involve  
36 telephone contact, email, or communication through a third party  
37 when the client agrees to it. Interpreters should be used when the  
38 attorney and client are not fluent in the same language.  
39

40 Upon accepting an appointment, the attorney should communicate  
41 to the client the importance of staying in contact with the attorney.  
42 While the attorney must communicate as necessary with the client,  
43 and be informed of the client’s wishes before a hearing, the client  
44 also must keep in contact with the attorney. At the beginning of  
45 the representation, the attorney should tell the client how to  
46 contact the attorney and discuss the importance of the client

1 keeping the attorney informed of changes in address, phone  
2 numbers, and the client's current whereabouts.  
3  
4

5 **9. Communicate with the client in a manner that**  
6 **promotes advocacy and adequate preparation to support**  
7 **the client's position.**  
8

9 Commentary  
10

11 The attorney's job extends beyond the courtroom. The attorney  
12 should be a counselor as well as litigator. The attorney should be  
13 available to talk with the client to prepare for hearings and to  
14 provide advice and information about ongoing concerns. Open  
15 lines of communication between attorneys and clients help ensure  
16 clients get answers to questions and attorneys get the information  
17 and documents they need.  
18

19 The attorney should be available for in-person meetings or  
20 telephone calls to answer the client's questions and address the  
21 client's concerns. The attorney and client should work together to  
22 identify and review short- and long-term goals, particularly as  
23 circumstances change during the case.  
24

25 **10. Take reasonable and necessary steps to locate and**  
26 **communicate with absent or incarcerated clients.**  
27 **Develop representation strategies. Establish a plan for**  
28 **the client's participation in case-related events.**  
29

30 Commentary  
31

32 *Absent Parents*  
33

34 Upon accepting an appointment, the attorney should communicate  
35 to the client the importance of staying in contact with the attorney.  
36 While the attorney must communicate as necessary with the client,  
37 and be informed of the client's wishes before a hearing, the client  
38 also must keep in contact with the attorney. At the beginning of  
39 the representation, the attorney should tell the client how to  
40 contact the attorney and discuss the importance of the client  
41 keeping the attorney informed of changes in address, phone  
42 numbers, and the client's current whereabouts.  
43

44 The attorney should make reasonable attempts to locate and  
45 communicate with missing parents to formulate the positions the

1 attorney should take at hearings and to understand what  
2 information the client wishes the attorney to share with the child  
3 welfare agency and the court. If the attorney is unable to find and  
4 communicate with the client, the attorney should consider filing a  
5 motion to withdraw.  
6

### 7 8 *Incarcerated Parents*

9  
10 An attorney who is appointed to represent an incarcerated parent  
11 has an ethical obligation to zealously represent that parent, even if  
12 the client is not an immediate placement option. Upon  
13 appointment to represent an incarcerated parent, an attorney  
14 should immediately locate the parent. If the incarcerated client is  
15 serving a sentence in Iowa, the attorney can locate that parent  
16 using the Iowa Department of Corrections website for offender  
17 information at <http://www.doc.state.ia.us/OffenderInfo.asp>. If the  
18 incarcerated parent is housed in a federal prison, the Bureau of  
19 Prison website at <http://www.bop.gov/iloc2/LocateInmate.jsp>  
20 can be used to locate the client.  
21

22 The attorney must be particularly diligent when representing an  
23 incarcerated parent. The attorney must be aware of the reasons  
24 for the incarceration. If the parent is incarcerated as a result of an  
25 act against the child or another child of the parent, the court can  
26 order that reasonable efforts are not required. The attorney must  
27 be prepared to argue against the issuance of such an order if the  
28 client opposes it. Attorneys should counsel the client as to any  
29 effects of incarceration and know statutory and case law  
30 concerning incarceration. The attorney should help the client  
31 identify potential kinship placements and advocate for placement  
32 with paternal relatives who can provide care for the child while the  
33 parent is incarcerated.  
34

### 35 36 *Services*

37  
38 The attorney should assist the client in obtaining services such as  
39 substance-related disorder treatment, parenting skills, or job  
40 training while incarcerated. The attorney must advocate for  
41 reasonable efforts for the client and may have to assist the client  
42 and the agency caseworker in acquisition of those services. The  
43 attorney must learn about available resources and seek the  
44 support of the agency and child's attorney.  
45  
46  
47



1 the requirement to repay the state for the court appointed attorney  
2 fees and expenses under Iowa Code section 815.9. The attorney  
3 should explain the work that can be billed under the court  
4 appointment, the billing rate, and when the court may start  
5 requiring reimbursement of the fees and expenses. Copies of all  
6 claims submitted to the State Public Defender for payment must be  
7 provided to the parent.  
8  
9

10 **12. Investigate and consider the client’s background and its**  
11 **impact on the case. Act in a culturally-competent**  
12 **manner and with due regard to disabilities or unique**  
13 **circumstances of the client. Advocate for appropriate**  
14 **supportive services with the child welfare agency and**  
15 **court.**

16  
17 Commentary  
18

19 The attorney should learn about and understand the client’s  
20 background, determine how it impacts the client’s case, and  
21 always show the client respect. The attorney must understand  
22 how cultural and socioeconomic differences impact interaction  
23 with the client, and must interpret the client’s words and actions  
24 accordingly.  
25

26 The child welfare system is comprises a diverse group of people,  
27 including the clients and professionals involved. Each person  
28 comes to this system with his or her own set of values and  
29 expectations, but it is essential that each person try to learn about  
30 and understand the backgrounds of others. An individual’s race,  
31 ethnicity, gender, sexual orientation, and socioeconomic position  
32 all have an impact on how the person acts and reacts in particular  
33 situations. The attorney must be vigilant against imposing the  
34 attorney’s values onto the client, and should, instead, work with  
35 the client within the context of the client’s culture and  
36 socioeconomic position. While the court and child welfare agency  
37 have expectations of parents in their treatment of children, the  
38 parent’s advocate must strive to explain these expectations to the  
39 client in a sensitive way. The attorney should also try to explain  
40 how the client’s background might affect the client’s ability to  
41 comply with court orders and agency requests.  
42

43 The attorney should ensure a formal interpreter is involved when  
44 the attorney and client are not fluent in the same language. The  
45 attorney should also advocate for the use of an interpreter when

1 other professionals in the case, who are not fluent in the same  
2 language as the client, are interviewing the client.

3  
4 The attorney and the client should identify barriers to the client  
5 engaging in services, such as employment, transportation, and  
6 financial issues. The attorney should work with the client,  
7 caseworker, and service provider to resolve the barriers.

8  
9 The attorney should be aware of any special issues the client may  
10 have related to participating in the proposed case plan, such as an  
11 inability to read or language differences, and advocate with the  
12 child welfare agency and court for appropriate supportive services.

13  
14 Attorneys representing parents must be able to determine whether  
15 a client's mental status (including mental illness and mental  
16 retardation) interferes with the client's ability to make decisions  
17 about the case. The attorney should be familiar with any mental  
18 health diagnosis and treatment that a client has had in the past or  
19 is undergoing (including any medications for such conditions).

## 20 21 22 **Investigation & Court Preparation:**

### 23 24 **13. Conduct an independent investigation at every stage of** 25 **the proceeding as reasonable and necessary.**

#### 26 27 Commentary

28  
29 The attorney should seek updates and reports from any service  
30 provider working with the child or the family or help the client  
31 obtain information about the child's safety, health, education, and  
32 well-being when the client desires.

33  
34 Often, the client is the best source of information for the attorney,  
35 and the attorney should set aside time to obtain that information.  
36 Since the interview may involve disclosure of sensitive or painful  
37 information, the attorney should explain attorney-client  
38 confidentiality to the client. The attorney may need to work hard  
39 to gain the client's trust, but if a trusting relationship can be  
40 developed, the attorney will have an easier time representing the  
41 client. The investigation will be more effective if guided by the  
42 client, as the client generally knows firsthand what occurred in the  
43 case.

44  
45 The attorney must take all necessary steps to prepare each case. A  
46 thorough investigation is an essential element of preparation. The

1 attorney cannot rely solely on what the agency caseworker reports  
2 about the client. Rather, the attorney should contact service  
3 providers who work with the client, relatives who can discuss the  
4 client's care of the child, the child's teacher, or other people who  
5 can clarify information relevant to the case. If necessary, the  
6 attorney should petition the court for funds to hire an investigator.  
7

8 **14. Use effective discovery methods according to the Iowa**  
9 **Rules of Juvenile Procedure.**

10  
11 Commentary  
12

13 The attorney should ask for and review the agency case file as early  
14 during the course of representation as possible. The file contains  
15 useful documents that the attorney may not yet have and will  
16 instruct the attorney on the agency's case theory. If the agency  
17 case file is inaccurate, the attorney should seek to correct it. The  
18 attorney must read the case file periodically because the agency is  
19 continually adding information.  
20

21 While an independent investigation is essential, it is also important  
22 that the attorney understands the information the agency is relying  
23 on to further its case. The case file should contain a history about  
24 the family that the client may not have shared and important  
25 reports and information about both the child and parent that the  
26 attorney must understand for hearings as well as settlement  
27 conferences. Unless the attorney also has the information the  
28 agency has, the attorney will walk into court at a disadvantage.  
29

30 As part of the discovery phase, the attorney should gather all  
31 relevant documentation regarding the case that might shed light  
32 on the allegations, the service plan, and the client's strengths as a  
33 parent. The attorney should not limit the scope of discovery as  
34 information about past or present criminal, protection from abuse,  
35 private custody, or administrative proceedings involving the client  
36 can have an impact on the abuse and neglect case. The attorney  
37 should also review the following kinds of documents:  
38

- 39 • social service records
- 40 • court records
- 41 • medical records
- 42 • school records
- 43 • evaluations of all types
- 44

45 The attorney should be sure to obtain reports and records from  
46 service providers.

1  
2 Discovery is not limited to information regarding the client, but  
3 may include records of others such as the other parent,  
4 stepparent, child, relative, and non-relative caregivers.

5  
6 In preparing the client's case, the attorney must try to learn as  
7 much about the client and the family as possible. Various records  
8 may contradict or supplement the agency's account of events.  
9 Gathering documentation to verify the client's reports about what  
10 occurred before the child came into care and progress the client is  
11 making during the case is necessary to provide concrete evidence  
12 for the court. Documentation may also alert the attorney to issues  
13 the client is having that the client did not share with counsel. The  
14 attorney may be able to intercede and assist the client with service  
15 providers, agency caseworkers, and others.

16  
17 The attorney should know what information is needed to prepare  
18 the case and understand the best methods of obtaining that  
19 information. The attorney should become familiar with the pretrial  
20 requests and actions used in the jurisdiction and use whatever  
21 tools are available to obtain necessary information. The attorney  
22 should consider the following types of formal discovery:  
23 depositions, interrogatories (including expert interrogatories),  
24 requests for production of documents, requests for admissions,  
25 and motions for mental or physical examination of a party. The  
26 attorney should file timely motions for discovery and renew these  
27 motions as needed to obtain the most recent records.

28  
29 The attorney should, consistent with the client's interests and  
30 goals, and when appropriate, take all necessary steps to preserve  
31 and protect the client's rights by opposing discovery requests of  
32 other parties.

33  
34 **15. Consult with the client to develop a case theory and**  
35 **strategy. Explain the statutory timeline for the case.**

36  
37 Commentary

38  
39 The attorney should spend time with the client to prepare the case  
40 and address questions and concerns. The attorney should clearly  
41 explain the allegations made against the client, what is likely to  
42 happen before, during, and after each hearing, and what steps the  
43 client can take to increase the likelihood of reuniting with the  
44 child. The attorney should explain any settlement options and  
45 determine whether the client wants the attorney to pursue such  
46 options. The attorney should explain courtroom procedures. The

1 attorney should write to the client to ensure the client understands  
2 what happened in court and what is expected of the client.  
3

4 Once the attorney has completed the initial investigation and  
5 discovery, including interviews with the client, the attorney should  
6 develop a strategy for representation. The strategy may change  
7 throughout the case, as the client makes or does not make  
8 progress, but the initial theory is important to assist the attorney  
9 in staying focused on the client's wishes and on what is achievable.  
10 The theory of the case should inform the attorney's preparation for  
11 hearings and arguments to the court throughout the case. It  
12 should also help the attorney decide which evidence to develop for  
13 hearings and the steps to take to move the case toward the client's  
14 ultimate goals (for example, requesting increased visitation when a  
15 client becomes engaged in services).  
16

17 At the beginning of a case, the attorney and client should develop  
18 timelines that project deadlines and important dates and a tickler  
19 or calendar system to track the deadlines and dates. The timeline  
20 should specify the actions the attorney and client will need to take  
21 and the dates for completion. The attorney and the client should  
22 know when important dates will occur and should be focused on  
23 timely accomplishing the objectives in the case plan. The attorney  
24 should provide the client with a timeline or calendar, outlining  
25 known and prospective court dates, service appointments,  
26 deadlines, and critical points of attorney-client contact. The  
27 attorney should record federal and state law deadlines in the  
28 system (for example, the 15 of 22 month point that would  
29 necessitate a termination of parental rights (TPR), if exceptions do  
30 not apply).  
31

32 Having a consistent calendaring system can help an attorney  
33 manage a busy caseload. Clients should receive a hard copy  
34 calendar to keep track of appointments and important dates. This  
35 helps clients stay focused on accomplishing the service plan goals  
36 and meeting court-imposed deadlines.  
37

## 38 **16. Timely file appropriate pleadings, motions, and briefs.**

### 39 Commentary

40  
41  
42 The attorney should make appropriate motions and evidentiary  
43 objections to advance the client's position during the hearing. If  
44 necessary, the attorney should file briefs in support of the client's  
45 position on motions and evidentiary issues. The attorney should  
46 always be aware of preserving legal issues for appeal.  
47

1 It is essential the attorney understands the applicable rules of  
2 evidence and all court rules and procedures. The attorney must be  
3 willing and able to make appropriate motions, objections, and  
4 arguments (for example, objecting to the qualification of expert  
5 witnesses or raising the issue of the child welfare agency's lack of  
6 reasonable efforts).

7  
8 When a case presents a complicated or new legal issue, the  
9 attorney should conduct the appropriate research before appearing  
10 in court. The attorney must have a solid understanding of the  
11 relevant law and be able to present it to the judge in a compelling  
12 and convincing way. The attorney should be prepared to  
13 distinguish case law that appears to be unfavorable.

14  
15 Arguments in child welfare cases are often fact-based.  
16 Nonetheless, the attorney should ground his or her arguments in  
17 statutory, regulatory, and common law. These sources of law exist  
18 in each jurisdiction, as well as in federal law. Additionally, law  
19 from other jurisdictions can be used to sway a court in the client's  
20 favor. An attorney who has a firm grasp of the law, and who is  
21 willing to do legal research on an individual case, may have more  
22 credibility before the court. At times, competent representation  
23 requires advancing legal arguments that are not yet accepted in  
24 the jurisdiction. The attorney should be mindful to preserve issues  
25 for appellate review by making a record even if the argument is  
26 unlikely to prevail at the trial level.

27  
28 **17. Engage in multidisciplinary case planning and advocate**  
29 **for appropriate services and high quality family**  
30 **interaction.**

31  
32 Commentary

33 The attorney must advocate for the client both in and out of court.  
34 Consistent, high quality family interaction is one of the best  
35 predictors of successful reunification between a parent and child.  
36 Often visits are arranged in settings that are uncomfortable and  
37 inhibiting for families. It is important that the attorney seek a  
38 family interaction order that will allow the best possible family  
39 interaction. Effort should be made to have family interaction be  
40 unsupervised or at the lowest possible level of supervision.  
41 Families are often more comfortable when relatives, family friends,  
42 clergy, or other community members are recruited to supervise  
43 family interaction rather than caseworkers. The attorney should  
44 advocate for family interaction to occur in the most family-friendly

1 locations possible, such as in the family’s home, parks, libraries,  
2 restaurants, places of worship, or other community venues.  
3

4 The attorney should know the social, mental health, substance-  
5 related disorder, and other treatment services that are available to  
6 parents and families in the jurisdiction in which the attorney  
7 practices to advocate effectively for the client to receive these  
8 services. The attorney should ask the client if the client wishes to  
9 engage in services. If so, the attorney must determine whether the  
10 client has access to the necessary services to overcome the issues  
11 that led to the case.  
12

13 The services in which the client is involved must be tailored to the  
14 client’s needs, and not merely hurdles over which the client must  
15 jump (for example, if the client is taking parenting classes, the  
16 classes must be relevant to the underlying issues in the case).  
17

18 The attorney should advocate for an effective family interaction  
19 plan and counsel the client on the importance of regular contact  
20 with the child. Preservation of parent-child bonds through regular  
21 family interaction is essential to any reunification effort. Courts  
22 and child welfare agencies may need to be pushed to develop  
23 family interaction plans that best fit the needs of the individual  
24 family. Factors to consider in family interaction plans include:  
25

- 26 • Frequency
- 27 • Length
- 28 • Location
- 29 • Supervision
- 30 • Types of activities
- 31 • Visit coaching—having someone at the visit who could model  
32 effective parenting skills  
33

34 For a client to succeed in a child welfare case the client must  
35 receive and cooperate with social services. It is therefore necessary  
36 that the attorney does whatever possible to obtain appropriate  
37 services for the client and then counsel the client about  
38 participating in such services. Examples of services common to  
39 child welfare cases include:  
40

- 41 • Evaluations
- 42 • Family preservation or reunification services
- 43 • Medical and mental health care
- 44 • Drug and alcohol treatment
- 45 • Domestic violence prevention, intervention, or treatment
- 46 • Parenting education

- Education and job training
- Housing
- Child care
- Funds for public transportation so the client can attend services

When necessary, the attorney should seek court orders to force the child welfare agency to provide services or family interaction for the client. The attorney may need to ask the court to enforce previously entered orders that the agency did not comply with in a reasonable period. The attorney should consider whether the child’s representative (lawyer, GAL, or CASA) might be an ally on service and visitation issues. If so, the attorney should solicit the child’s representative’s assistance and work together in making requests to the agency and the court.

**18. Effectively participate with the client in family team meetings, mediation, and other negotiations.**

Commentary

A family team meeting is a voluntary process for a family involved with the Department of Human Services (department). It is designed to engage and support the family in the case planning, case management, and case closure process. A family team meeting is not an adversarial setting and it may seem to the attorney that social work is occurring. But the critical nature of family team meetings is too often misunderstood by attorneys for parents. The family team meeting forum is one of the most critical stages of juvenile court because it is where the department develops or refines the case plan. The case plan is a key document the court will use to assess whether the client has made progress. The case plan also should be the framework for the attorney to develop the theory of the case.

An attorney should attend family team meetings and actively engage in case planning to ensure the client asks the department for and receives the needed services. In every case, the services in which the client is involved must be tailored to the client’s specific needs and not merely be hurdles over which the client must jump (for example, if the client is required to take parenting classes, the classes must be relevant to the underlying issue in the case). The attorney should be prepared to object to the department’s inclusion of services in the case plan that are beyond the client’s needs. If the department continues to require services that are not tailored to the client’s specific needs, the attorney must bring the

1 issue before the court on the grounds of a lack of reasonable  
2 efforts.

3  
4 The attorney should be available to accompany the client to other  
5 important meetings during a case if the client requests. Whenever  
6 possible, the parent's attorney should engage in a dialogue with  
7 the social worker and service provider to monitor the department's  
8 perspective of the client's progress. The attorney should act as a  
9 liaison and advocate for the client with the social worker and  
10 service provider.

11  
12 **19. Thoroughly prepare the client in advance for all**  
13 **hearings, meetings, and other case events.**

14  
15 Commentary

16  
17 The attorney must prepare for and attend all hearings. Part of that  
18 preparation is to thoroughly prepare the client in advance of the  
19 hearing. This also includes thoroughly preparing an incarcerated  
20 client in advance of hearings and other case events.

21  
22 For the client to have a fair chance during the hearing, the  
23 attorney and the client must be prepared and present in court.  
24 Counsel's failure to participate in the proceedings in which all  
25 other parties are represented may disadvantage the client.  
26 Therefore, the attorney should be actively involved in this stage.  
27 Attorneys must appear for all court appearances on time. If an  
28 attorney has a conflict with another courtroom appearance, the  
29 attorney should notify the court and other parties and request a  
30 short continuance. In a substantive hearing, the attorney should  
31 avoid having another attorney stand in to represent the client,  
32 especially if the other attorney is unfamiliar with the client or case.

33  
34 **20. Identify, locate, and prepare necessary lay and expert**  
35 **witnesses. Prepare for cross-examination and, when**  
36 **permissible, interview those witnesses.**

37  
38 Commentary

39  
40 The attorney must be able to present witnesses effectively to  
41 advance the client's position. Witnesses must be prepared in  
42 advance and the attorney should know the evidence that will be  
43 presented through the witnesses. The attorney must also be  
44 skilled at cross-examining opposing parties' witnesses. The

1 attorney must know how to offer documents, photos, and physical  
2 objects into evidence.  
3

4 At each hearing the attorney should keep the case theory in mind,  
5 advocate for the child to return home and for appropriate services,  
6 if that is the client's position, and request that the court state its  
7 expectations of all parties.  
8

9 Becoming a strong courtroom attorney takes practice and attention  
10 to detail. The attorney must be sure to learn the rules on  
11 presenting witnesses, impeaching testimony, and entering  
12 evidence. The attorney should seek out training in trial skills and  
13 observe more experienced trial attorneys to learn from them. Even  
14 if the attorney is more seasoned, effective direct and cross-  
15 examination require careful preparation. The attorney must know  
16 the relevant records well enough to be able to impeach adverse  
17 witnesses and bring out in both direct and cross-examinations any  
18 information that would support the client's position. Attorneys  
19 who are not as experienced may wish to consult with other  
20 experienced attorneys about complex cases. Presenting and cross-  
21 examining witnesses are skills with which the attorney must be  
22 comfortable.  
23

24 The attorney, in consultation with the client, should develop a  
25 witness list well before a hearing. The attorney should not assume  
26 the agency will call a witness, even if the witness is named on the  
27 agency's witness list. The attorney should, when possible, contact  
28 the potential witnesses to determine if they can provide helpful  
29 testimony.  
30

31 When appropriate, witnesses should be informed that a subpoena  
32 is on its way. The attorney should also ensure the subpoena is  
33 served. The attorney should subpoena potential agency witnesses  
34 (for example, a previous caseworker) who have favorable  
35 information about the client.  
36

37 The attorney should set aside time before the hearing to fully  
38 prepare all witnesses in person. The attorney should remind the  
39 witnesses about the court date.  
40

41 Preparation is the key to successfully resolving a case, either in  
42 negotiation or trial. The attorney should plan as early as possible  
43 for the case and make arrangements accordingly. Witnesses may  
44 have direct knowledge of the allegations against the client. They  
45 may be service providers working with the client or individuals  
46 from the community who could testify generally about the family's  
47 strengths.

1  
2 When appropriate, the attorney should consider working with  
3 other parties who share the client’s position (such as the child’s  
4 representative) when creating a witness list, issuing subpoenas,  
5 and preparing witnesses. Doctors, nurses, teachers, therapists,  
6 and other potential witnesses have busy schedules and need  
7 advance warning about the date and time of the hearing.  
8

9 Witnesses are often nervous about testifying in court. The attorney  
10 should prepare them thoroughly so they feel comfortable with the  
11 process. Preparation will generally include rehearsing the specific  
12 questions and answers expected on direct examination and  
13 anticipating the questions and answers that might arise on cross-  
14 examination. The attorney should provide written questions for  
15 those witnesses who need them.  
16

17 Often a case requires multiple experts in different roles, such as  
18 experts in medicine, mental health treatment, drug and alcohol  
19 treatment, or social work. Experts may be needed for ongoing case  
20 consultation in addition to providing testimony at trial. The  
21 attorney should consider whether the opposing party is calling  
22 expert witnesses and determine whether the client needs to call  
23 any experts.  
24

25 When expert testimony is required, the attorney should identify the  
26 qualified experts and seek necessary funds to retain them in a  
27 timely manner. The attorney should subpoena the witnesses,  
28 giving them as much advance notice of the court date as possible.  
29 As is true for all witnesses, the attorney should spend as much  
30 time as possible preparing the expert witnesses for the hearing.  
31 The attorney should be competent in qualifying expert witnesses.  
32

33 When opposing counsel plans to call expert witnesses, the attorney  
34 should file expert interrogatories, depose the witnesses, or  
35 interview the witnesses in advance, depending on the jurisdiction’s  
36 rules on attorney work product. The attorney should do whatever  
37 is necessary to learn what the opposing expert witnesses will say  
38 about the client during the hearing.  
39

40 By contacting opposing counsel’s expert witnesses in advance, the  
41 attorney will know the evidence that will be presented against the  
42 client and whether the expert has any favorable information that  
43 might be elicited on cross-examination. The attorney will be able  
44 to discuss the issues with the client, prepare a defense, and call  
45 experts on behalf of the client, if appropriate. Conversely, if the  
46 attorney does not talk to the opposing expert in advance, the

1 attorney could be surprised by the evidence and unable to  
2 represent the client competently.

3  
4 **21. Review court orders to ensure accuracy and clarity.**  
5 **Review orders with the client. Take reasonable steps to**  
6 **ensure the client complies with court orders.**

7  
8 Commentary  
9

10 After the hearing, the attorney should review the written order to  
11 ensure it reflects the court’s verbal order. If the order is incorrect,  
12 the attorney should take the necessary steps to correct it. Once  
13 the order is final, the attorney should provide the client with a copy  
14 of the order and should review the order with the client to ensure  
15 the client understands it. If the client is unhappy with the order,  
16 the attorney should counsel the client about options for appeal or  
17 to request rehearing on the order, but the attorney should explain  
18 that the order is in effect unless a stay or other relief is secured.  
19 The attorney should counsel the client on the potential  
20 consequences of failing to comply with a court order.

21  
22 The client may be angry about being involved in the child welfare  
23 system, and a court order that is not in the client’s favor could add  
24 stress and frustration. It is essential that the attorney take time,  
25 either immediately after the hearing or at a meeting soon after the  
26 court date, to discuss the hearing and the outcome with the client.  
27 The attorney should counsel the client about all options, including  
28 appeal. Regardless of whether an appeal is appropriate, the  
29 attorney should counsel the client about potential consequences of  
30 not complying with the order.

31  
32 **22. Continually evaluate whether the case should be**  
33 **reviewed by the court prior to the next scheduled**  
34 **hearing date to ensure case progress.**

35  
36 Commentary  
37

38 The attorney should play an active role in assisting the client in  
39 complying with court orders, obtaining family interaction, and  
40 securing other necessary services. The attorney should speak with  
41 the client regularly about progress and any difficulties the client is  
42 encountering while trying to comply with the court order or service  
43 plan.  
44

1 If the client is attempting to comply with the order and case plan  
2 but other parties, such as the department or a contracted provider,  
3 are not meeting their responsibilities, the attorney should  
4 approach the other party and seek assistance on behalf of the  
5 client.

6 When the department is not offering appropriate services to meet  
7 the needs of the client to promote reunification, the attorney  
8 should first request the department in writing to provide the  
9 needed services to the client. If the department still does not  
10 provide reasonable efforts to preserve and unify the family or make  
11 it possible for the child to return home safely, the attorney should  
12 consider filing a motion alleging the department is not making  
13 reasonable efforts and request the case immediately be brought  
14 back to court to litigate this issue. See Iowa Code section  
15 232.102(10)—Reasonable Efforts.

16 **23. Timely file reasonable and necessary post-hearing**  
17 **motions.**

18  
19  
20 **Appeal:**

21  
22 **24. Consider and discuss appeal options and deadlines with**  
23 **the client.**

24  
25 Commentary

26  
27 The attorney should inform the client of appeal rights and the  
28 expedited appellate deadlines in juvenile cases. The attorney  
29 should counsel the client on the likelihood of a successful appeal  
30 and the potential consequences of an appeal. The attorney should  
31 always litigate the case and preserve the record with the  
32 assumption there may be a subsequent appeal.

33  
34 **25. Timely file appeal documents if the client decides to**  
35 **appeal. Adhere to the Iowa Rules of Appellate Procedure.**

36  
37 Commentary

38  
39 The attorney shall carefully review obligations under the Iowa  
40 Rules of Appellate Procedure and timely file all paperwork. A  
41 summary follows:  
42

1           *Notice of Appeal.* Must be filed within 15 days of the date of the  
2 order and signed by the attorney *and* the client. Iowa R. App. P.  
3 6.101(1) and 6.102(1)(a). See Form 4 in rule 6.1401. The  
4 notice shall be served upon all counsel of record, all  
5 unrepresented parties, the attorney general, and the clerk of the  
6 supreme court pursuant to Iowa R. Civ. P. 1.442(2) and  
7 1.442(7). The notice of appeal shall include a certificate of  
8 service in the form provided in Iowa R. Civ. P. 1.442(7).  
9

10           *Notice of Cross Appeal.* Must be filed within the 15-day limit for  
11 filing a notice of appeal, or within 10 days after filing of the  
12 notice of appeal, whichever is later. Iowa R. App. P. 6.101(2)(a).  
13

14           *Petition on Appeal.* The protocol for a juvenile appeal under  
15 Iowa Code chapter 232 differs somewhat from other appeals.  
16 Unless a petition on appeal is filed, the juvenile appeal will be  
17 dismissed. Iowa R. App. P. 6.102(1)(b); 6.201(1) & (2); see Form  
18 5 in rule 6.1401. Ensure all necessary attachments are  
19 included, a certificate of service is included, and the petition is  
20 served in the same manner as the notice of appeal. Iowa R.  
21 App. P. 6.201(1). If the petition is not served within 15 days  
22 after filing the notice of appeal, the appeal will be dismissed  
23 with no recourse. Iowa R. App. P. 6.201(2). Extensions will  
24 most likely not be granted, as the rules explicitly state, “*The*  
25 *time for filing a petition on appeal shall not be extended.*” Iowa  
26 R. App. P. 6.201(1)(b).  
27

28           *Response to Petition on Appeal.* Is optional unless a notice of  
29 cross-appeal was filed. Iowa R. App. P. 6.202(1). Similar to the  
30 petition on appeal, careful attention should be paid to the rules  
31 with regard to notice, service, length, form (including acceptable  
32 font and number of pages), the number of copies to be served,  
33 and cover. See Form 6 in rule 6.1401.  
34

35           *Reply to Issues Raised in Cross Appeal.* Must be filed within 7  
36 days after service of the Appellee’s response. Iowa R. App. P.  
37 6.203.  
38

39           *Filing Fee.* Within 7 days after filing the notice of appeal, the  
40 appellant shall pay the filing fee as provided in rule 6.702(1) or  
41 request a waiver or deferral of the fee pursuant to rule 6.702(2).  
42

43           *Ordering Transcript.* Within 7 days after filing the notice of  
44 appeal, the appellant shall use a combined certificate to order a  
45 transcript from the court reporter. Iowa R. App. P. 6.803(1) and  
46 6.804; see Form 2 in rule 6.1401.  
47

1           *Transmission of Record.* Within 30 days of the filing of the  
2 notice of appeal, the appellant shall request the clerk of the  
3 district court to transmit the record to the clerk of the supreme  
4 court. Iowa R. App. P. 6.204. In Chapter 232 cases, the court  
5 reporter then has 30 days to file the transcript. Iowa R. App. P.  
6 6.803(3)(b).

7  
8           *Disposition of Appeal.* After reviewing the petition on appeal,  
9 any response, any reply, and the record, the appellate court  
10 may affirm or reverse, remand the case, or set the case for full  
11 briefing as directed by the court. Iowa R. App. P. 6.205(1) and  
12 6.902(1)(d). If the court of appeals affirms or reverses the  
13 court's order, or remands the case, further review pursuant to  
14 Iowa R. App. P. 6.1103 may be sought. The court of appeals'  
15 refusal to grant full briefing shall not constitute grounds for  
16 further review by the supreme court. Iowa R. App. P. 6.205(2).

17  
18           The petition on appeal should clearly, concisely, and  
19 comprehensively state the material relevant facts, legal issues, and  
20 supporting legal authority as they relate to the issues presented for  
21 appeal. The petition should present all relevant case law and  
22 present the best legal arguments available in state and federal law  
23 for the client's position. The petition should include novel legal  
24 arguments if there is a chance of developing favorable law in  
25 support of the client's claim.

26  
27           When the trial attorney is not handling the appeal, the trial  
28 attorney should take all steps necessary to facilitate appointing  
29 appellate counsel and work with the new attorney to identify  
30 appropriate issues for appeal. The attorney who handled the trial  
31 may have insight beyond what a new attorney could obtain by  
32 reading the trial transcript. Additionally, if appellate counsel  
33 differs from the trial attorney, the appellate attorney should meet  
34 with the client as soon as possible. At the initial meeting,  
35 appellate counsel should determine the client's position and goals  
36 in the appeal. Appellate counsel should independently determine  
37 his or her client's position and goals on appeal.

38  
39           The attorney shall keep the client informed of the status of the  
40 appeal. The client should be informed of the date, time, and place  
41 scheduled for oral argument of the appeal.

1       **26. Timely review ruling and discuss its implications with**  
2       **the client.**

3  
4                               Commentary

5  
6       The attorney shall communicate the result of the appeal and its  
7       implications immediately upon learning of the decision, so the  
8       client does not find out from another source, and the attorney shall  
9       provide the client with a copy of the appellate decision.

10  
11       **27. Consider and discuss further review options.**

12  
13                               Commentary

14  
15       If the court of appeals affirms or reverses the court's order, or  
16       remands the case, further review pursuant to Iowa R. App. P.  
17       6.1103 may be sought. The court of appeals' refusal to grant full  
18       briefing shall not constitute grounds for further review by the  
19       supreme court. Iowa R. App. P. 6.205(2).  
20