

**LEGAL AID SOCIETY
CONTRA COSTA DEPENDENCY PROGRAM**

**ATTORNEY COMPLAINT
POLICIES AND PROCEDURES**

The goal of the Superior Court, Contra Costa County (“the court”) and the Legal Aid Society, Contra Costa Dependency Court Program (“LAS”) is to help ensure that only lawyers who have demonstrated a proficiency in juvenile dependency law, and who are qualified and competent, are appointed by the court. To that end, the following policies and procedures are established for all complaints regarding court-appointed counsel.

A. ESTABLISHMENT OF COMPLAINT ADMINISTRATOR

The court shall establish a Complaint Administrator who has no affiliation with LAS or the juvenile dependency bar. The Complaint Administrator will be appointed by the Court Executive Officer.

B. RESPONSIBILITIES OF THE COMPLAINT ADMINSTRATOR

The primary responsibilities of the Complaint Administrator are to: provide an initial review of all complaints referred by a judicial officer regarding the professional performance and competence of juvenile dependency court-appointed counsel; refer investigation of appropriate complaints to the contracted attorney investigator; and assist in administering the complaint process set forth herein.

C. COMPLAINT PROCEDURES

- (1) Complaints from parties. Any party to a juvenile dependency proceeding who has a complaint against his or her own counsel shall call the LAS managing attorney at (925) 370-6800. Upon receiving the complaint, the managing attorney will notify the party’s counsel in writing, and counsel may set a Marsden hearing for the first available date. At the Marsden hearing, the judicial officer will assess the evidence presented and determine if: (a) new counsel should be appointed; and (b) there is sufficient basis to refer the complaint to the Complaint Administrator. If the judicial officer finds that there is a sufficient factual basis to do so, the judicial officer shall immediately refer the matter to the Complaint Administrator for further review and investigation.

- (2) Complaint Administrator. The Complaint Administrator will, in as confidential a manner as possible, timely review complaints received and will promptly notify LAS and the supervising juvenile dependency judicial officer of the general nature of the complaint. At the direction of the juvenile dependency judge, the Complaint Administrator will assign the complaint to a contract attorney investigator who is unaffiliated with LAS or the Contra Costa County Juvenile Dependency Bar to analyze the facts surrounding the complaint and investigate

the allegations. The contract attorney investigator will do a general review of each court-appointed counsel who is the subject of a complaint to address the following:

- a. PROFESSIONAL ABILITY - advocacy skills, written work product, problem analysis, statement of issues and analysis, research skills;
- b. PROFESSIONAL REPUTATION - integrity, probity, honesty, reliability;
- c. EFFECTIVENESS - demeanor, common sense, fairness, objectivity, adaptability, ability to work under pressure;
- d. ADDITIONAL FACTORS – any other relevant factors.

- (3) Notice and Response. Each and every court-appointed counsel who is the subject of a complaint shall be notified, in writing, by the Complaint Administrator that a complaint has been filed against him or her, and will describe the general nature of the complaint. The contract attorney investigator shall then schedule an interview with counsel. The purpose of the interview is to provide counsel with a reasonable opportunity to respond to adverse information and to present any additional information which may support his or her professional performance or competence. During the interview, the contract attorney investigator should discuss with counsel all relevant factors, including both positive and negative information. Counsel shall be given a reasonable period of time after the interview to submit to the contract attorney investigator additional information in response to adverse allegations raised in the interview.

At the conclusion of the review process, the Complaint Administrator shall notify the Managing Attorney of LAS and the supervising juvenile dependency judicial officer of the contract attorney investigator's conclusion that the complaint is founded or unfounded, and what, if any, action is recommended if the complaint is determined to be founded.

- (4) Finality of Decision. All conclusions of the contract attorney investigator and information submitted by counsel in response to the allegations shall be reviewed by the supervising juvenile dependency judicial officer. The supervising juvenile dependency judicial officer shall affirm or reject the investigator's conclusions, and that decision shall be final. The Complaint Administrator will transmit the supervising juvenile dependency judicial officer's final decision in writing to counsel and LAS within thirty (30) days of the final decision. There shall be no further right of review or appeal by any party.

D. FINAL ACTION BY LAS

LAS shall carry out the final action on a complaint as determined by the court. Final action may include, but will not be limited to, providing a written warning to counsel, requiring counsel to receive remedial training and education, or termination.