

## Being an Effective Advocate: Even During a Pandemic

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General Requirements: NC IDS Performance Guidelines and Rules of Professional Conduct Govern; IDS Guideline 1.2 General Role of Parent Attorney: states “ *The paramount obligations of parent counsel are to provide zealous and quality representation to their clients at all stages of the proceedings, and to preserve, protect, and promote their clients’ rights and expressed interests throughout the proceedings.*”

**3 Big Cs of General Advocacy (disclaimer: there are much more required of you than this list)**

### 1. **Competence**

- Know the law, when rules of Evidence apply and etc.
- Know the local rules
- Know the required timelines per the statute
- Know the services in the area
- Know the judges and other attorneys (especially the county attorneys and GAL attorneys and how they handle things and regard various matters)

### 2. **Communication**

- Keep in regular contact with your client to know how they are doing and to inform them of court dates and continuance and etc. and the status of their case
- Make calls and send letters or emails

### 3. **Consultation or Conference**

- You should *consult* with your client and advise them of their rights, defenses, what may happen if they do not follow orders or recommendations and give them advice on how to proceed. Use your expertise, experience and be sure to review the file and records to guide your conversations with your client.
- You may and should *confer* with others involved in this case (opposing counsel or service providers and etc.) to negotiate on behalf of your client or to advocate for your client.

## Enhanced Advocacy During Pandemic

### 1. Competence

- Keep up to date with orders from Chief Justice Beasley, judges and others that have a say in these cases
  - Example:
    - Rights of clients (and you) not to appear in person, see ADA law and NC rules that allow for us to seek accommodations
      - Make sure you are advocating for what your client wishes are, since some may have a preference for in person or Webex hearings
      - Know what is allowed or not in your district
      - Be sure the individual client is in agreement before you just take a blanket stance in all your cases
- Know the state and federal directives and guidelines for AND cases
  - Use the information in your advocacy for your client
    - Look to NC Department of Health and Human Services and local DSS policies and procedures and Federal Guidance
    - See NC Child Welfare Court Suggested Practices During COVID-19 Pandemic
- Push back on DSS and GAL if they insist that visits and etc. cannot be conducted
  - Continue to ask for more time, as you normally would
- Be open and willing to learn new ways of conducting court and participating in services
  - Make sure your client has access and if not, look to ways they can get connected
- Review the Webex technical guide to familiarize yourself with how things will flow
  - Practice with your client on how to participate in hearings virtually and prepare them as thoroughly as possible
- Be flexible and collaborative where you can be
  - Be open to agreeing to email service
  - Look to resolving issues as much as possible to minimize the need for future or more frequent hearings and etc. (*enter consent orders whenever possible*)
  - Be open to consenting to changes in visitation, but still be vigilant that DSS comply with 7B-905.1 that dictates that DSS must file a motion when it temporarily suspends all or part of a visitation plan.
- Be knowledgeable of what services are available, how they are offered, and insist on your client getting services in those ways or insist on different services

### 2. Communication

- Increase your communication with clients via phone, email, and meet with them virtually
  - They need more support now more than ever

-Get information on support folks to reach your client because there is a higher chance client's phone may be cut off and you could lose contact in other ways

-Increase communication with DSS and service providers

-Inform your client of any information you obtain about services and how they are offered

-Try to help your client do something productive, even if it is just one thing

### 3. Consultation and Conference

-Attend CFTs and other meetings as much as possible and allowable

-Reach out to service providers and obtain information directly from them about services and your client

-In court, advocate for a more appropriate case plan or order based on the needs of your client and seek a change in the order

-Ensure that your client is being ordered to do what is allowable per the statute

-Set the stage early and set your client up to succeed as best as possible overall but especially during a pandemic

**\*Note:** Even though at TPR it must be shown it was willful noncompliance, you do not want to have to wait until a TPR to make the argument of how the Pandemic has caused or contributed to them not doing what was ordered.

-Now more than ever, it is important to encourage judges to have *staggered case plans*

-Make objections and get arguments and information on the record to preserve the record for appeal

### Links to Documents/Resources:

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| IDS Performance Guidelines  | <a href="http://www.ncids.org/ParentRepresentation/PerformanceGuidelines/Parent_Atty_guides_1-08.pdf">http://www.ncids.org/ParentRepresentation/PerformanceGuidelines/Parent_Atty_guides_1-08.pdf</a>   |
| Federal Children's Bureau Letter w/Directives                       | <a href="https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf">https://www.acf.hhs.gov/sites/default/files/cb/covid_19_childlegalandjudicial.pdf</a>   |
| NC Child Welfare Court Suggested Practices During COVID-19 Pandemic | <a href="https://files.nc.gov/ncdhhs/NC-Child-Welfare-Court-Plan-during-COVID-19-Pandemic-branded-NWX.pdf">https://files.nc.gov/ncdhhs/NC-Child-Welfare-Court-Plan-during-COVID-19-Pandemic-branded-NWX.pdf</a>   |
| AOC "How to Request a Reasonable Accommodations"                    | <a href="https://www.nccourts.gov/assets/documents/publications/ADA-Statewide-Protocol_0.pdf?71DEzTdwqvEkWfVOj706hhYN2KRpYkG8">https://www.nccourts.gov/assets/documents/publications/ADA-Statewide-Protocol_0.pdf?71DEzTdwqvEkWfVOj706hhYN2KRpYkG8</a>                 |
| AOC Webex Guidance and Resources                                    | <a href="https://www.nccourts.gov/about/nc-administrative-office-of-the-courts/training/webex-resources-online-audio-video-technology">https://www.nccourts.gov/about/nc-administrative-office-of-the-courts/training/webex-resources-online-audio-video-technology</a> |