



# **Legal Representation for Children and Youth Policy Manual**

Revised April 1, 2026

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Control Pages</b>	
Section:	<b>Table of Contents</b>	
Page:	1 of 5	Effective: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Control Pages

Title Page  
Table of Contents  
How to use this manual

## 1.0 General Information

- 1.1 Overview
- Background
  - Authority
  - Mandate
  - Interpretation of policy
- 1.2 Definitions
- 1.3 Information management

## 2.0 LRCY Services Provided to Young People

- 2.1 When services are provided
- Request for legal representation
    - Disclosure of Caregiver's name
  - Eligibility for appointment of legal representation
    - Appeal of an *Enhancement Act* or *PSECA* matter
    - Supervision Order
    - Child Intervention Appeal Panel
    - Adoption
  - Discretion of the LRCY Manager/Deputy Advocate
- 2.2 When services might not be provided
- Young Person's choice of legal representation
  - Denial of request for legal representation
  - Seeking costs

## 3.0 Appointment and Removal of Legal Representation

- 3.1 Administration of roster
- Introduction
    - LRCY regions
    - Location of Roster Lawyer base
    - Area of practice
    - Roster Lawyer's personal information
  - Roster eligibility
    - Cost of Criminal Record Check
  - Roster application process
    - Application package
    - Panel interview
    - Approval

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Control Pages	
Section:	Table of Contents	
Page:	2 of 5	Effective: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**4.0  
Roster Lawyer's  
Legal Services  
Provided to a  
Young Person**

- Agreement and training plan
  - Maintaining Roster Agreement eligibility
  - Termination of a Roster Agreement
  - Conflict of interest
- 3.2 Appointment of Roster Lawyers
  - Introduction
  - Specific Roster Lawyer requested
  - General roster appointment considerations
    - Target city
    - Special considerations
    - Sibling group
    - Senior counsel
    - Subsequent referral
    - S.35.1 (Children's First) Applications
  - Roster rotation rules
  - Roster rotation guidelines
    - Exception
  - Commencement of appointment
  - Notification of appointment
    - Young Person
  - Conclusion of appointment
- 3.3 Complaints and Removal of Legal Representation
  - Young Person's request to dismiss a Roster Lawyer
  - Complaint by another party about a Roster Lawyer
  - Termination of appointment
    - Roster Lawyer's request
- 3.4 Working with Others
  - Introduction
  - Communications
  - OCYA Advocates
  - Other Counsel
- 4.1 Expectations of a Roster Lawyer
  - Introduction
  - Role of counsel
  - Conflict of interest
  - Scope of work
  - LRCY Policy and Service Standards
  - Roster Lawyer's attendance
    - Use of agent
    - Use of articling student
  - Recording

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Control Pages</b>	
Section:	<b>Table of Contents</b>	
Page:	3 of 5	Effective: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

- 4.2 Contacting the Young Person
  - Initial contact
  - Minimum face-face contact with the Young Person
  - Meeting location
  - Ongoing contact
  - Final contact
  - Standard
    - Exception
- 4.3 Gathering information
  - Introduction
  - Disclosure
    - Requesting assessments
- 4.4 Attending Court
  - Introduction
  - Appointed lawyer absence
  - Adjournments
  - LRCY lawyer as agent
  - First appearance
  - Standard
    - Exception
- 4.5 Representing the Young Person's views in court
  - Introduction
  - Instructional advocacy
  - Non-instruction-based advocacy
  - Standard
    - Exception
- 4.6 Advising the Young Person of their procedural rights
  - Introduction
  - Procedural rights
    - Exception
- 4.7 Case reporting
  - Case status reporting requirements

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Control Pages</b>	
Section:	<b>Table of Contents</b>	
Page:	4 of 5	Effective: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**5.0  
Quality  
Assurance**

- 5.1 Quality Assurance
  - Introduction
  - Authority of LRCY to ensure quality legal representation
- 5.2 Quality assurance reviews
  - Introduction
  - QA review process
  - Client survey
- 5.3 Mentor program
  - Introduction
  - Role of Designated Mentors
  - Responsibility of requesting lawyer
  - Mentor selection
  - Access to Mentor support
  - Compensation of Mentors
  - Professional responsibility of Designated Mentor and requesting lawyer

**6.0  
Financial  
Administration of  
Services**

- 6.1 Tariffs and fees
  - Introduction
  - Payment to the lawyer for services rendered
  - Per diem claims and overlapping charges
  - Block maximums
  - Receipted and non-receipted chargeable items
  - Concurrent cases
  - Special costs at the discretion of the LRCY Manager/Deputy Advocate
  - GST
  - Legal services and related costs (SRV01-SRV05)
    - Non-court time (SRV01)
    - Requests for additional SRV01 Hours
    - Roster Lawyer non-court hours face-face meeting with Client (SRV01F)
    - Roster Lawyer's Agent non-court time (SRV01L)
    - Articling student non-court time (SRV01S)
    - Court time (SRV02)
    - Court time – Agent (SRV02L)
    - Court time – Articling student (SRV02S)
    - Filing fees & transcript costs (SRV03 – SRV04)
    - Court delays (SRV05)
  - Expert services (ESS02 – ESS03)
    - Witness fees
  - Administrative costs (ADM01 – ADM05)

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Control Pages	
Section:	Table of Contents	
Page:	5 of 5	Effective: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

- Travel (TRV01 – TRV11)
  - Travel time
- Travel – Local
- Travel – Extended
  - Travel reimbursement
  - Other transportation (TRV11)
  - Car rentals (TRV11)
  - Airport wait time (SRV07)
- Meals and accommodations (MAA01R – MAA02P)
  - Meals
  - Accommodations

6.2 Invoicing and payment for services

- Vendor set up
- Submission of account information
- Invoicing for incomplete appointment
- Payment schedule and interest
- Account corrections and final invoice
- Audit of claims and review of material
- Retention of appointment information
- Withholding payment
- Invoice and status reporting requirements
  - Submitting invoices
  - Invoice reporting requirements
  - Failure to submit an invoice
  - OCYA file closure

**Appendices**

Appendix 1 – Quick Reference Guide – Tariffs and Fees

Appendix 2 – LRCY Roster Application Form

Appendix 3 – LRCY Service Standards

Appendix 4 – LRCY Mentor Program Acknowledgement Form

Appendix 5 – Guidelines on the Role of Counsel

Appendix 6 – Lawyer Complaint Form

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Control Pages</b>	
Section:	<b>How to Use this Manual</b>	
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Manual structure**

The manual is structured as follows:

- Tab: the overarching subject matter. Tabs are numbered with a single-digit number followed by a period and a zero.
- Section: the specific topics within a Tab. Each Section starts on a new page numbered with the Tab number followed by a period and a second number.
- Subject: the topics within a Section. Each subject is named with a blue caption in the left margin.
- Clause: each paragraph within a Subject. Some Clauses are highlighted by a green sub-caption in the left margin.
- Bullets: a series of points or steps that flow from a sentence stem that begins the Clause.

**LRCY Policy Manual**

The manual is the provincial policy and procedural requirements for all Roster Lawyers and OCYA Staff, delegated by the Child and Youth Advocate (the “Advocate”).

**Manual authority**

The manual must be followed unless an exception has been granted by the Deputy Advocate, Direct Advocacy

**Questions and clarifications to policy**

Inquiries about this manual should be directed to the Manager, Legal Representation for Children and Youth or the Deputy Advocate, Direct Advocacy.

**Exceptional Situations**

Requests for exception to the policy must be made in writing to the Deputy Advocate, Direct Advocacy. The outcome of the request must be documented.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Overview	1.1
Page:	1 of 2	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Background

On December 21, 2004, the Deputy Ministers of Children’s Services and Justice approved a recommendation from the Children’s Lawyer Working Committee to create a child-friendly service of appointing lawyers to children and youth involved in child protection proceedings. The appointment of lawyers was previously managed by the Legal Aid Society of Alberta (for children 12 years old and older) and Alberta Justice (for children 11 years old and younger).

## Authority

Legal Representation for Children and Youth (LRCY) was established by the Minister of Children’s Services (the Minister) pursuant to section 8 of the *Government Organization Act*, R.S.A. 2000, c. G-10, to provide legal representation to Young People receiving a designated service.

Under the auspices of the Office of the Child and Youth Advocate as per Section 9(2)(c) of the *Child and Youth Advocate Act*, SA 2011, c C-11.5 (“CYAA”), the LRCY program was created to oversee the administrative appointment of lawyers for Young People who are receiving services under the *Child, Youth and Family Enhancement Act* R.S.A. 2000, c. C-12 (“*Enhancement Act*”) (excluding Part 2) or the *Protection of Sexually Exploited Children Act* R.S.A. 2000, c. P-28 (“*PSECA*”). In addition, as per the *Child and Youth Advocate Regulation*, Alta Reg 53/2012 (“*Regulations*”) additional appointments may be made for guardianship application under the *Family Law Act*, SA 2003, c F-4.5 (“*FLA*”), a guardianship and/or trusteeship application under the *Adult Guardianship and Trusteeship Act*, SA 2008 c A-4.2 (“*AGTA*”), limited proceedings under the *Citizenship Act*, RSC 1985 c C-29, and applications under the *Protection Against Family Violence Act*, RSA 2000, c P-27 (“*PAFVA*”).

LRCY does not have the authority to appoint legal representation for children/youth involved in civil, criminal, or private custody and access matters.

## Mandate

LRCY services are available to Children and Youth receiving Designated Services under the *Enhancement Act* or *PSECA* services through Child and Family Services (CFS) and Delegated First Nation Agencies (DFNAs).

The mandate of LRCY is to provide a legal appointment service that:

- is user friendly and accessible from anywhere in Alberta;
- provides timely appointments for legal representation; and
- establishes best practices, supports, and standards for quality legal representation.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Overview	1.1
Page:	2 of 2	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Interpretation of policy**

The Manager of LRCY and the Deputy Advocate, Direct Advocacy (“LRCY Manager/Deputy Advocate”) are empowered to carry out the above duties and functions.

If the Young Person is not represented by a lawyer and if the Young Person, their guardian, or a Caseworker makes a request, the Alberta Court of Justice may direct that legal representation be appointed for the Young Person pursuant to section 112(1) of the *Enhancement Act*. If the Court so directs, the Child and Youth Advocate through LRCY will appoint a lawyer pursuant to s.112(3).

They and theirs will be used throughout as gender-neutral singular pronouns. Wherever the singular number occurs, the plural may be substituted, and vice versa, as the context may require.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Definitions	1.2
Page:	1 of 6	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

Below is a list of commonly used terms, acronyms and legislative references found throughout the Manual

## Legislations

Legislation	Acronym/Abbreviation
<i>Access to Information Act</i>	ATIA
<i>Child and Youth Advocate Act</i>	CYAA
<i>Child and Youth Advocate Regulation</i>	Regulation
<i>Child, Youth and Family Enhancement Act</i>	Enhancement Act
<i>Family Law Act</i>	FLA
<i>Protection of Privacy Act</i>	POPA
<i>Protection of Sexually Exploited Children Act</i>	PSECA
<i>Protection Against Family Violence Act</i>	PAFVA

## Acronyms

Full term	Acronym in Policy
Child and Family Services	CFS
Delegated First Nation Agencies	DFNA
Legal Appointment and Payment System	LAPS
Legal Appointment and Payment System – Lawyer Self Serve	LAPS - LSS
Legal Representation for Children and Youth	LRCY
Office of the Child and Youth Advocate	OCYA
Supervision Order	SO
Temporary Guardianship Order	TGO
Permanent Guardianship Order	PGO

## Terms

### *Access to Information Act*

This legislation enables access to records held by public bodies in Alberta, promoting transparency, accessibility, and accountability. It balances the public's right to know information with the need to protect confidential information that are essential to ensure effective operations of government and public bodies.

### *Adult Guardianship and Trusteeship Act*

The *Adult Guardianship and Trusteeship Act* establishes a range of decision-making supports for adults who require assistance, or who do

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Definitions	1.2
Page:	2 of 6	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

	not have the capacity, to make personal and financial decisions for themselves.
<b>Appeal</b>	Appeal refers to a review of a court order granted under the <i>Child, Youth and Family Enhancement Act</i> (S.114), and the <i>Protection of Sexually Exploited Children Act</i> (S.3.4).
<b>Appointment</b>	This refers to the appointment of a Roster Lawyer to provide legal services to a Young Person by the Office of the Child and Youth Advocate.
<b>Caregiver</b>	The person(s) identified by the Caseworker as providing the day-to-day care of the Young Person.
<b>Caseworker</b>	Caseworkers, assessors, intake workers, or anyone who performs tasks under the <i>Child, Youth and Family Enhancement Act</i> or the <i>Protection of Sexually Exploited Children Act</i> .
<b>Child</b>	A person under the age of 18 years, including a Youth.
<b>Child and Youth Advocate</b>	Child and Youth Advocate means the duly appointed Child and Youth Advocate in accordance with the <i>Child and Youth Advocate Act</i> , SA 2011, c C-11.5.
<b>Child Intervention Appeal Panel</b>	A process overseen by a panel of private citizens to review a decision made by Child Intervention (S.120 under the <i>Child, Youth and Family Enhancement Act</i> ).
<b>Child Intervention Services</b>	Any services, including enhancement and protective services provided to a Young Person or family under the <i>Enhancement Act</i> (but excluding adoptions or licensing) or the <i>Protection of Sexually Exploited Children Act</i> .
<b>Child, Youth and Family Enhancement Act</b>	<i>Child, Youth and Family Enhancement Act</i> (CYFEA or <i>Enhancement Act</i> ) is the provincial legislation governing Child Intervention Services.
<b>Client/LRCY Client</b>	A Young Person receiving legal representation from a Roster Lawyer.
<b>Court Ordered Appointment</b>	An appointment for legal representation ordered for a Young Person by the Alberta Court of Justice pursuant to section 112 of the <i>Enhancement Act</i> .
<b>Deputy Advocate</b>	Refers to the individual who holds the position of Deputy Advocate of Direct Advocacy at the relevant time. The LRCY Manager reports to this position.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Definitions	1.2
Page:	3 of 6	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

<b>Designated Services</b>	The <i>Child and Youth Advocate Act</i> outlines when the Office of the Child and Youth Advocate can support young people who are receiving specific services under the <i>Child, Youth and Family Enhancement Act</i> (excluding adoption) and the <i>Protection of Sexually Exploited Children Act</i> .
<b>Designated Mentor/Mentor “Director”</b>	A Roster Lawyer who has been selected by the LRCY Manager/Deputy Advocate to provide mentoring services to LRCY-appointed lawyers.  The “Director,” as defined in the <i>Child, Youth and Family Enhancement Act</i> .
<b>Eligibility for Appointment of legal representation</b>	Conditions in a referral that must be met prior to LRCY appointing a lawyer to act on behalf of a Young Person.
<b>Family Law Act</b>	This act is the main provincial private family law statute. It deals with determination of the Child’s parentage; guardianship, parenting and contact orders; enforcement of time with a Child; spousal, adult interdependent partner and Child support; the Child support recalculation program; and other actions.
<b>Hearing of Substance</b>	An appearance before a Justice of the Alberta Court of Justice, Court of King’s Bench, or any Court of Appeal to deal with a matter of some significance to the action. Hearings of substance do not include incidental matters such as uncontested requests for adjournments or the scheduling of future court dates.
<b>Individualized Training Plan</b>	A plan determined in conjunction and consultation with the Roster Lawyer
<b>Instructional Advocacy</b>	Instructional advocacy is where counsel honours the Young Person’s instructions, or lack thereof if the Young Person chooses not to advance a position.
<b>Interests and Entitlements</b>	Interests and entitlements is a non-instructional advocacy role taken when a Young Person lacks the ability to instruct counsel or is unwilling to instruct counsel. In this role, the lawyer takes a position based on an objective assessment of what is important in the Young Person’s life.
<b>LRCY Manager</b>	This refers to the individual(s) holding the position of Manager within LRCY at the relevant time.
<b>LRCY Policy</b>	The collective policies within this manual.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Definitions	1.2
Page:	4 of 6	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

<b>LRCY Appointment Number</b>	A number issued by LRCY for an appointment to a lawyer authorizing them to act on behalf of an LRCY Client pursuant to the LRCY policy on expectations, fees, and tariffs.
<b>Legal Appointment and Payment System</b>	The online system used to appoint lawyers and to pay them for legal services provided.
<b>Legal Appointment and Payment System-Self Serve</b>	The online system used by lawyers to accept appointments and submit invoices for legal services provided.
<b>Roster Criteria</b>	The requirements a lawyer must satisfy prior to being considered for the Roster. These requirements must continue to be satisfied for the lawyer to remain on the Roster.
<b>Matter</b>	Any legal procedure under the authority of the <i>Enhancement Act</i> or <i>PSECA</i> .
<b>Permanent Guardianship Order</b>	Under this order, the “Director,” as defined in the <i>Child, Youth and Family Enhancement Act</i> , becomes the sole guardian of a Child (S.34 <i>Child, Youth and Family Enhancement Act</i> ).
<b>Private Guardianship</b>	<i>Child, Youth and Family Enhancement Act</i> (S.52), a court order that appoints a person to be the guardian of a Child upon application by that person.
<b>Procedural Rights</b>	Children and Youth have rights outlined in the <i>Child, Youth and Family Enhancement Act</i> and the <i>Protection of Sexually Exploited Children Act</i> related to legal procedures and processes.
<b>Protection of Sexually Exploited Children Act</b>	Legislation pertaining to a sexually exploited Child. Young People can be placed in secure services facilities or receive service through a voluntary agreement under this legislation (S.2).
<b>Protection Against Family Violence Act</b>	The <i>Protection Against Family Violence Act</i> provides the authority for the Court to grant a protection order where it has determined that violence has occurred and is likely to continue.
<b>Protection of Privacy Act</b>	Establishes the legislative framework by which public bodies may collect, use, or disclose personal information and requires the protection of personal information held by public bodies. As well as allows public bodies to create, use and disclose non-personal data in limited circumstances.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Definitions	1.2
Page:	5 of 6	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

<b>Review</b>	Review refers to a Review of a court order granted under the <i>Child, Youth and Family Enhancement Act</i> , including the Review of a Supervision or Temporary Guardianship Order (S.32 ), Review of a Secure Services Order (S.49 )and the <i>Protection of Sexually Exploited Children Act</i> including Review of confinement decision (S.2.1) and Review of confinement order (S.3.2).
<b>Role of Counsel Guidelines</b>	The guidelines outlining how LRCY lawyers are expected to represent young people are defined in Appendix 5.
<b>Roster</b>	Refers to the roster of lawyers who have been approved and are eligible to provide legal services to a Client.
<b>Roster Agreement</b>	An agreement between a lawyer and the Office of the Child and Youth Advocate. The lawyer, upon signing the agreement, agrees to perform services required of a Roster Lawyer and to comply with the provisions of the agreement and the expectations outlined in the LRCY Policy Manual.
<b>Roster Lawyer</b>	A lawyer who has a current, signed Roster Agreement
<b>Secure Services</b>	The <i>Child, Youth and Family Enhancement Act</i> allows for the confinement of a Child for up to 30 days for stabilization and assessment when the Child is found to be an immediate danger to themselves or others. (S.44 <i>Child, Youth and Family Enhancement Act</i> ).
<b>Special Considerations</b>	In relation to a Young Person under age 12: Given the circumstances, the Young Person appears to have the ability to make informed decisions regarding legal representation.  In relation to a Young Person aged 12 and over: Given the circumstances, the Young Person appears to lack the ability to make informed decisions regarding legal representation.
<b>Standards or Service Standards</b>	The reportable standards as summarized in Appendix 3 of the LRCY Policy Manual.
<b>Supervision Order</b>	A court order granting the “Director” as defined in the <i>Child, Youth and Family Enhancement Act</i> mandatory supervision of a Young Person. Guardians retain custody. (S.28 <i>Child, Youth and Family Enhancement Act</i> ).
<b>Temporary Guardianship Order</b>	The court grants the “Director,” as defined in the <i>Child, Youth and Family Enhancement Act</i> , custody and guardianship of a Child for a specific period. The Child is in the care of Child Intervention Services and

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	General Information	1.0
Section:	Definitions	1.2
Page:	6 of 6	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

guardianship is shared with the parent or legal guardian. (S.31 *Child, Youth and Family Enhancement Act*).

**Young Person**

A Child or Youth who is receiving or is seeking to receive a Designated Service.

**Young Person's Child**

A Child receiving a Designated Service whose parent is a Young Person receiving a Designated Service.

**Youth**

A Young Person who is 16 or 17 years of age.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>General Information</b>	1.0
Section:	<b>Information Management</b>	1.3
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Background

The management of records is an important function for LRCY lawyers. Lawyers must make every reasonable effort to ensure that the protection of personal information is maintained. This policy pertains to information about a Young Person contained within a paper record, electronic record, or on electronic storage device.

## Lost, stolen or misdirected Young Person information

When information about a Young Person is lost, stolen, or sent to an unintended party, the LRCY lawyer must notify the LRCY Manager/Deputy Advocate immediately.

Notification must include:

- Young Person's name
- date of breach
- type of breach
- type of record
- Young Person's information contained within the record
- efforts made to retrieve the information
- future steps planned to prevent similar situation

## Recovering information

In the event of an information breach, the LRCY lawyer must make all efforts to recover and retrieve the information.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	LRCY Services Provided to Young People	2.0
Section:	When Services are Provided	2.1
Page:	1 of 2	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

### Request for legal representation

An application for legal representation of a Young Person may be made by the Court, the Young Person, the Caseworker, or any other interested person or party. Information about the application is confirmed with the Young Person's Caseworker including:

- the Young Person's legal status under the *Enhancement Act* or *PSECA* or both;
- that the Caseworker is aware of the application,
- the type of application and the date of any court hearing,
- that the other parties have been served, or that there is a plan for service; and
- the other parties to the application and their legal representative.

The lawyer being offered the appointment may use this information to determine if there is a conflict of interest that would preclude them from accepting the appointment.

### Disclosure of Caregiver's name

If the Young Person is in the care of the "Director", LRCY will notify the Caseworker of the need to share the Caregiver's name with the lawyer appointed to represent the Young Person.

### Eligibility for appointment of legal representation

LRCY **may** appoint a lawyer to act on behalf of a Young Person receiving Designated Services under the *Enhancement Act* or *PSECA* if:

- the Young Person is, or may be, subject to an application, review under Part 1 or an appeal of any order granted under Part 1 of the *Enhancement Act* or any application or appeal under *PSECA*;
- the Young Person wishes to apply for an order or appeal under the *Protection Against Family Violence Act*; or
- the Young Person's Child is, or may be, subject to an application or review under Part 1 or an appeal of any order granted under Part 1 of the *Enhancement Act*.

LRCY **may** appoint a lawyer to act for a Young Person subject of a PGO, if they are subject to:

- a Guardianship Application under the *Family Law Act*, SA 2003, c F-4.5 ("*FLA*");
- a Guardianship and/or Trustee Application(s) under the *Adult Guardianship and Trusteeship Act*; or
- a matter regarding their citizenship status.

### Appeals to court of an Enhancement Act or PSECA matter

If another party initiates an Appeal under the *Enhancement Act* or *PSECA* of an order relating to a Young Person, the LRCY Manager/Deputy Advocate may appoint a lawyer to act on behalf of the Young Person receiving services.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	LRCY Services Provided to Young People	2.0
Section:	When Services are Provided	2.1
Page:	2 of 2	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

	<p>The LRCY Manager/Deputy Advocate may appoint a Roster Lawyer to act on behalf of the Young Person aged 12 and over receiving services if the Young Person requests an appeal under the <i>Enhancement Act</i> or <i>PSECA</i> of an order relating to the Young Person.</p> <p>If a Roster Lawyer requests an appeal under the <i>Enhancement Act</i> or <i>PSECA</i> on behalf of a Young Person under the age of 12, the lawyer must prepare an opinion for review by the LRCY Manager/Deputy Advocate, who may forward it to a panel of Mentor Lawyers for review and recommendation. The LRCY Manager/Deputy Advocate may appoint the original Roster Lawyer or another lawyer to act on behalf of the Young Person regarding the appeal. The Roster Lawyer must inform LRCY of deadlines as outlined in <i>120 (3) (b) (i) of Enhancement Act</i> or <i>3.4 (1) PSECA</i>.</p>
<p><b>Supervision Order</b></p>	<p>On referral via a S.112 Order under the <i>Enhancement Act</i> from the Court and LRCY will appoint counsel for an application for Supervision Order</p> <p>In exceptional circumstances, LRCY will appoint counsel on referral for an application for a Supervision Order or a Review or Appeal of a Supervision Order.</p>
<p><b>Child Intervention Appeal Panel</b></p>	<p>LRCY may appoint counsel for Child Intervention Appeal Panel matters under Part 4 General with approval from the Deputy Advocate.</p>
<p><b>Adoption</b></p>	<p>LRCY will not appoint for any application under Part 2 Adoption of the <i>Enhancement Act</i>.</p>
<p><b>Discretion of the LRCY Manager/Deputy Advocate</b></p>	<p>If a Young Person is not eligible for an appointment of legal representation, the LRCY Manager/Deputy Advocate or their delegate may exercise their discretion to appoint a lawyer upon determining that the provision of independent representation is necessary to safeguard the interests, rights, and viewpoints of the Young Person who is receiving services under the <i>Enhancement Act</i> or <i>PSECA</i>.</p>

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	LRCY Services Provided to Children and Youth	2.0
Section:	When Services Might Not be Provided	2.2
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Young Person's choice of legal representation**

When a referral to LRCY is made by another person on behalf of a Young Person age 12 and over, wherever possible, LRCY considers the Young Person's input when making a decision to appoint counsel. Unless special considerations apply, the Young Person may decline the appointment of legal representation.

A Young Person may not refuse legal representation if there is a S.112 Order appointing counsel.

A Young Person under age 12 may not refuse legal representation.

**Denial of request for legal representation**

If LRCY denies the appointment of legal representation, the Young Person, the guardian of the Young Person, or a Caseworker acting for the "Director" may do one or more of the following:

- Ask the court to make an order for legal representation under section 112 of the *Enhancement Act*; and/or
- Make an application to Legal Aid for a lawyer to be appointed for the Young Person. Upon making an application to Legal Aid, written notification of the LRCY decision to deny an appointment may be required.

**Seeking costs**

In most cases, LRCY does not support seeking costs on behalf of the Young Person. If the Roster Lawyer believes there is a good reason to seek costs, the Roster Lawyer must obtain prior approval from the LRCY Manager/Deputy Advocate before proceeding.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Administration of Roster</b>	3.1
Page:	1 of 5	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

LRCY has established a roster of lawyers who have met the approved criteria to be eligible to represent a Young Person involved in a matter contemplated by Section 9(2)(c) of the CYAA. The LRCY Roster is managed through a database that stores information about eligible Roster Lawyers.

## LRCY regions

The roster is organized according to the following LRCY regions:

- Calgary
- Drumheller
- Edmonton
- Fort McMurray
- Grand Prairie
- High Level/Peace River
- Lethbridge
- Medicine Hat
- Red Deer
- St. Paul
- Wetaskiwin

## Location of Roster Lawyer base

The Roster Lawyer's base is determined by their law firm city. Wherever possible, Roster Lawyers will be appointed to court matters within the location of their Roster Lawyer base.

## Area of practice

Roster Lawyers may practice outside of their Roster Lawyer base. The area of practice is determined by the Roster Lawyer's preferred geographical location of legal representation. To meet operational needs, LRCY may amend the Roster Lawyer's area of practice.

## Roster Lawyer's personal information

LRCY uses personal information stored in the database to:

- appoint Roster Lawyers;
- determine a lawyer's eligibility for taking appointments;
- correspond with Roster Lawyer;
- process invoices and provide payment for services; and
- generate statistics that will assist it in program planning.

LRCY collects, uses, and stores information about each Roster Lawyer who and/or is approved for an appointment or applies to be a Roster Lawyer in a manner that is consistent with the *Access to Information Act* S.A. 2024, A-1.4 and the *Protection of Privacy Act* S.A. 2024, P-28.5.

The information stored in the database includes:

- the personal information the applicant Roster Lawyer provides when they submit the LRCY Roster Application form (Appendix 2);
- any updated information provided during the term of their Roster

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Appointment and Removal of Legal Representation	3.0
Section:	Administration of Roster	3.1
Page:	2 of 5	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

### Roster eligibility

- Agreement; and
- any information obtained by LRCY to assist in assessing an applicant Roster Lawyer's eligibility for taking appointments or the required information provided to a Roster Lawyer who accepts an LRCY appointment.

Any Roster Lawyer who is to be considered for LRCY general appointments must have a current, signed Roster Agreement.

In order to be considered for a Roster Agreement, a Roster Lawyer must meet all of the following criteria:

- be an active member in good standing with the Law Society of Alberta;
- be willing to provide legal representation according to the expectations in LRCY Policy and Service Standards;
- successfully complete a panel interview;
- successfully be offered a Roster Agreement at the sole discretion of the LRCY Manager/Deputy Advocate;
- provide an acceptable Criminal Record Check with Vulnerable Sector Search;
- provide an acceptable Child Intervention Record Check;
- accept the terms and conditions by signing:
  - a Roster Agreement;
  - an Individualized Training Plan; and
- provide any additional information requested by the LRCY Manager/Deputy Advocate.

### Cost of Criminal Record Check

LRCY will reimburse every Roster Lawyer who is accepted onto the roster with the cost of the Criminal Record Check,

### Roster application process

#### Application package

A Roster Lawyer who meets the criteria for a Roster Agreement must complete the *LRCY Roster Application* (see Appendix 2) and forward a signed copy of the Application to the LRCY Manager/Deputy Advocate for consideration, accompanied by:

- a letter of interest;
- a resume; and
- a minimum of two professional references.

### Panel interview

Upon reviewing the application package, the LRCY Manager/Deputy Advocate will decide whether to invite the applicant to a panel interview.

The applicant must demonstrate an understanding of proper methods of interviewing the Client, role of child counsel, and Child Intervention Services legislation. The applicant must also show an ability and

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Appointment and Removal of Legal Representation	3.0
Section:	Administration of Roster	3.1
Page:	3 of 5	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

	<p>interest in performing their services in accordance with the OCYA's philosophy as it relates to the representation of the rights, interests, and viewpoints of Young People.</p>
<p><b>Approval</b></p>	<p>Approval of the LRCY Roster application will be at the sole discretion of the LRCY Manager/Deputy Advocate. The LRCY Manager/Deputy Advocate notifies the applicant Roster Lawyer in writing regarding the decision to approve or deny the application.</p>
<p><b>Agreement and training plan</b></p>	<p>Before placing the eligible applicant on the LRCY Roster, the LRCY Manager/Deputy Advocate requires the Roster Lawyer to:</p> <ul style="list-style-type: none"> <li>• Enter into a Roster Member Agreement with the OCYA, including commitments such as agreeing to: <ul style="list-style-type: none"> <li>○ act to ensure the rights, interests and viewpoints of Young People are heard and represented in a manner that is consistent with the OCYA's position on the voice of the Young Person; and</li> <li>○ meet and uphold the LRCY's Policies contained within this manual, including Service Standards as outlined in Appendix 3, and Guidelines on the Role of Counsel as outlined in Appendix 5, and</li> <li>○ ensure that they are well informed about changes to the same; and</li> </ul> </li> <li>• Sign an individualized training plan, agreeing to obtain required training within a specified period.</li> </ul>
<p><b>Maintaining Roster Agreement eligibility</b></p>	<p>For the Roster Lawyer to remain on the roster during the term of the roster agreement, the Roster Lawyer must:</p> <ul style="list-style-type: none"> <li>• comply with LRCY policy and standards through satisfactory reporting;</li> <li>• attend at least <b>8 hours</b> in each fiscal year of training approved by LRCY; <ul style="list-style-type: none"> <li>○ at least 2 hours must be related to Indigenous worldview</li> </ul> </li> <li>• accept at least 3 appointments in each fiscal year; and</li> <li>• demonstrate commitment to promoting the rights, viewpoints, and interests of their clients.</li> </ul> <p>Lawyers must inform the LRCY Manager/Deputy Advocate of any complaints about their legal practice that result in a Law Society of Alberta hearing or notice to the public.</p> <p>The roster agreement does not automatically renew upon the expiration of the Term, as defined in the Roster Agreement. If Roster Lawyers are offered a subsequent Roster Agreement, each subsequent Roster Agreement is separate and distinct from the previous Roster Agreement.</p>

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Administration of Roster</b>	3.1
Page:	4 of 5	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

### Termination of a Roster Agreement

In the circumstances the Roster Lawyer receives successive Roster Agreements, each Roster Agreement is independent and in no circumstances are the Roster Agreements to be considered continuous.

Any decision to offer a new Roster Agreement is an exercise of the Child and Youth Advocate’s discretion to enter a private contract for services.

In the event that no new Roster Agreement is entered into, the Roster Lawyer must, in compliance with their professional and ethical obligations, prepare a file transfer memorandum to the LRCY Manager or the Deputy Advocate of Direct Advocacy. Time is of the essence when preparing the file transfer memorandum.

Should a file transfer not be possible, the lawyer may be required to enter into a temporary Roster Agreement to ensure that the Client’s legal rights are not prejudiced by a change in representation.

In accordance with the Roster Agreement, a Roster Lawyer’s Roster Agreement may be terminated by the Roster Lawyer or by the LRCY Manager/Deputy Advocate.

Upon receiving or providing a Termination Notice, the Roster Lawyer must prepare a file transfer memorandum.

A Roster Lawyer whose Roster Agreement is terminated and wishes to receive a new Roster Agreement must re-apply.

Grounds for the immediate termination of a Roster Agreement, include, but are not limited to:

- Upon being charged with an offence against a Young Person, or an offence that endangers a Young Person whether or not that Young Person is represented by the Roster Lawyer;
- Failing to provide LRCY with complete and accurate information;
- The Roster Lawyer was unavailable to accept offers for a period of 12 months;
- Failing to accept at least 3 Appointments pursuant to their Roster Agreement in any fiscal year;
- A change in professional status (e.g. suspension or disbarment from the Law Society of Alberta);
- Knowingly acting in opposition to the Young Person’s interests and/or wishes;
- Failing to attend at least 8 hours in each fiscal year of training approved by LRCY;
- Failing to meet LRCY policy or standards;

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Administration of Roster</b>	3.1
Page:	5 of 5	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

- Failing to maintain satisfactory reporting that indicates compliance with the LRCY policy or Service Standards;
- Failing to report on an Appointment pursuant to their Roster Agreement for a period of 12 months;
- Acting in a manner that limits their ability to adequately represent a Client; or
- Any matter the LRCY Manager/Deputy Advocate believes warrants removal of the Roster Lawyer from the roster.

**Conflict of Interest**

Roster Lawyers must ensure that their other professional and personal interests do not compromise, influence, or prejudice their ability to represent young people.

In addition, Roster Lawyers must immediately notify the LRCY Manager/Deputy Advocacy if they are, or may be, in a position that makes decisions, judgments, rulings, or actions that could potentially conflict with the interests of the OCYA.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Appointment of Roster Lawyers</b>	3.2
Page:	1 of 5	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

<b>Introduction</b>	LRCY appoints a lawyer from the roster as per Section 2.1.
<b>Specific Roster Lawyer requested</b>	<p>Unless special considerations apply, a Young Person under age 12 who is eligible for an appointment of legal representation may not request a specific Roster Lawyer.</p> <p>Unless special considerations apply, a Young Person aged 12 or over who is eligible for an appointment of legal representation may request a specific Roster Lawyer.</p> <p>LRCY does not accept recommendations from other parties for a specific Roster Lawyer to be appointed for a Young Person.</p>
<b>General roster appointment considerations</b>	<p>If a Young Person aged 12 or over does not specify a Roster Lawyer, or if the application is regarding a Roster Lawyer for a Young Person under age 12, LRCY will appoint a Roster Lawyer from the roster rotation.</p> <p>LRCY makes the following considerations when appointing a Roster Lawyer:</p>
<b>Target city</b>	The target city refers to the geographic community of the court hearing and/or the location of the Young Person’s placement. Roster Lawyers who have a base or location of practice (see S.3.1) that matches the target city are considered for the appointment.
<b>Special Considerations</b>	<p>If a gender preference for a Roster Lawyer is indicated, LRCY first considers Roster Lawyers of the specified gender.</p> <p>If a language preference other than English is indicated, LRCY first considers Roster Lawyers who have declared a proficiency in the requested language.</p> <p>If a Young Person requests an Indigenous Roster Lawyer, LRCY first considers Roster Lawyers who are Indigenous.</p> <p>If a special skill is needed, such as expertise in immigration matters or American Sign Language, LRCY first considers Roster Lawyers who have declared proficiency in these areas.</p>
<b>Sibling group</b>	In circumstances where the legal matter pertains to a sibling group, LRCY will process one (1) application for the young people as a group. If LRCY is aware of conflicting interests amongst the siblings, separate appointments for all or some of the siblings may be made.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Appointment and Removal of Legal Representation	3.0
Section:	Appointment of Roster Lawyers	3.2
Page:	2 of 5	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

<p><b>Senior counsel</b></p> <p><b>Subsequent referral</b></p> <p><b>S.35.1 (Children’s First) Applications</b></p> <p><b>Roster rotation rules</b></p>	<p>If a Roster Lawyer determines that there are varying and/or conflicting interests amongst the siblings, the Roster Lawyer must contact LRCY and request that a separate Roster Lawyer be appointed for one (1) or more of the involved siblings.</p> <p>If a Roster Lawyer is asked to represent multiple Young People under a single appointment, LRCY tariffs and fees apply equally to the case (see Appendix 1), although an exception may be authorized by the LRCY Manager/Deputy Advocate.</p> <p>If a senior Roster Lawyer is required for a court matter given the complexity of the legal situation or family situation, a Mentor Lawyer (see S. 5.4) may be appointed.</p> <p>If a Young Person has previously received legal representation through LRCY, and they are eligible to receive legal representation again for a new matter or for an appeal of an <i>Enhancement Act</i> or <i>PSECA</i> order or Appeal to the Child Intervention Appeal Panel, consideration is given to appointing the same Roster Lawyer to represent the Young Person.</p> <p>Prior to approaching a Roster Lawyer with an offer for a subsequent appointment for a Young Person, LRCY will ask the Young Person aged 12 and over if they want the same Roster Lawyer that was previously appointed.</p> <p>If legal representation is required for an application made under S. 35.1 of the <i>Enhancement Act</i> (a Children’s First Application) a Mentor Lawyer is preferred. However, a Young Person’s preference for legal representation may be considered.</p> <p>Timeline for Appointing a Roster Lawyer:</p> <ul style="list-style-type: none"> <li>To ensure timely appointments for Young Person, and to provide each Roster Lawyer with a reasonable amount of time to respond to offers, the following timelines apply:</li> </ul> <p style="text-align: center;">Timelines for Lawyers to Respond to LRCY Offers</p> <table border="1"> <thead> <tr> <th>Level of Urgency</th> <th>Number of Days to Court</th> <th>Maximum Time LRCY Allows Lawyer to Respond to an Offer</th> </tr> </thead> <tbody> <tr> <td>Regular (non-urgent) Appointment</td> <td>4 days or more</td> <td>By the end of the next business day</td> </tr> <tr> <td>Urgent Appointment</td> <td>0 – 3 days</td> <td>First available Roster Lawyer</td> </tr> </tbody> </table>	Level of Urgency	Number of Days to Court	Maximum Time LRCY Allows Lawyer to Respond to an Offer	Regular (non-urgent) Appointment	4 days or more	By the end of the next business day	Urgent Appointment	0 – 3 days	First available Roster Lawyer
Level of Urgency	Number of Days to Court	Maximum Time LRCY Allows Lawyer to Respond to an Offer								
Regular (non-urgent) Appointment	4 days or more	By the end of the next business day								
Urgent Appointment	0 – 3 days	First available Roster Lawyer								

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Appointment and Removal of Legal Representation	3.0
Section:	Appointment of Roster Lawyers	3.2
Page:	3 of 5	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Roster rotation guidelines**

- If a Roster Lawyer does not respond within the allotted time, the next Roster Lawyer is contacted and offered the appointment. This process continues until a Roster Lawyer is appointed.

LRCY makes offers to Roster Lawyers on rotation whose location of Roster Lawyer base (see S.3.1) and target city match. Should no Roster Lawyers be found, on rotation LRCY will offer to Roster Lawyers whose area of practice (see S.3.1) matches the target city. Should no Roster Lawyers be found, LRCY will offer to Roster Lawyers who have identified they are prepared to travel outside of their area of practice and are on the extended travel list.

To promote equal opportunities for offers, each Roster Lawyer’s name rotates through the roster according to the specified guidelines:

- Depending on a Roster Lawyer’s response to an offer and the category of the appointment, the Roster Lawyer’s name may rotate to the bottom of the roster or remain static. If the Roster Lawyer has indicated that they are available to receive offers in multiple jurisdictions, their response to an offer for one (1) jurisdiction impacts their overall standing on the roster.
- When a Roster Lawyer is temporarily unable to accept offers, the Roster Lawyer must notify LRCY specifying the dates the Roster Lawyer will be unavailable. The Roster Lawyer’s name will be placed in a holding position on the roster for the period that the Roster Lawyer is not available. If LRCY is not advised and contacts the Roster Lawyer with an offer for a regular appointment, which the Roster Lawyer is unable to accept, their name moves to the bottom of the roster.

For the purpose of this section, “Urgent” appointments include appointments where there are three (3) or fewer working days between the date of the offer and the date of court. “Regular” (non-urgent) appointments include appointments where there are four (4) or more days between the date of the offer and the date of court.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Appointment of Roster Lawyers</b>	3.2
Page:	4 of 5	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

Guidelines for Roster Rotation

Category of Appointment	Roster Lawyer's Response to LRCY Offer	Corresponding Movement of Roster Lawyer's Name on LRCY Database
Regular Regular Regular	Decline Accept Didn't respond in time	Roster Lawyer's name rotates to bottom of roster.
Urgent or regular from the extended list	Accept	
Urgent	Accept	
Urgent	Decline	Roster Lawyer's name does not move.
Urgent	LRCY can't wait for Roster Lawyer's response	
Urgent or Regular	Roster Lawyer is in a conflict of interest	
Regular from the extended list	Decline	
Urgent or Regular	Accept a Young Person's request to have the Roster Lawyer as counsel	

**Exception**

In exceptional circumstances, the LRCY Manager/Deputy Advocate may exercise their discretion to appoint a Roster Lawyer outside of the roster rotation rules.

**Commencement of appointment**

A Roster Lawyer who agrees to accept an LRCY appointment is deemed to be the Roster Lawyer of record from the effective date indicated on the appointment letter that is provided by LRCY.

The Roster Lawyer must accept the appointment letter on LAPS-LSS within five (5) business days for the appointment process to be complete and to ensure payment for services.

**Notification of appointment**

Unless special considerations apply, LRCY will notify the Caseworker of the appointment and provide the name and contact information for the Roster Lawyer.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Appointment of Roster Lawyers</b>	3.2
Page:	5 of 5	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Young Person**

LRCY notifies the Young Person, their Caregiver, or Caseworker of a Roster Lawyer’s appointment and provides the name and contact information of the appointed Roster Lawyer

**Conclusion of appointment**

All legal services related to an appointment must terminate within 45 days of a final decision rendered by the court on the matter, allowing time for contact with the Young Person after the appeal period has expired. The LRCY Manager/Deputy Advocate may extend the 45-day termination period if there are extenuating circumstances, but only with prior notice.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Complaints and Removal of a Roster Lawyer</b>	3.3
Page:	1 of 2	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Young Person's Request to dismiss a Roster Lawyer**

Young People aged 12 and over can request a new Roster Lawyer. Unless Special Considerations apply, they have the authority to request the dismissal of a Roster Lawyer appointed by LRCY. If the Young Person requests further representation or the court has ordered that the Young Person be represented, a new Roster Lawyer is appointed by LRCY through the general roster appointment process.

Unless Special Considerations apply, when a Young Person expresses a desire to dismiss a Roster Lawyer appointed by LRCY, the Roster Lawyer for the Young Person is contacted and is advised of the request, and when appropriate, new counsel is appointed.

The Young Person may forward their complaint to the LRCY Manager by

- speaking with an Intake worker at 1-800-661-3446
- speaking with the LRCY Manager by calling 1-800-661-3446
- completing the complaint form located in APPENDIX 6 and submitting it via
  - Email to [LRCY.Information@ocya.alberta.ca](mailto:LRCY.Information@ocya.alberta.ca), or
  - Mail to:

Office of the Child and Youth Advocate  
Attention: LRCY Manager  
 600, 9925 109 Street NW  
 Edmonton AB T5K 2J8

The LRCY Manager will discuss the concerns with the Roster Lawyer, and will follow the Young Person's requests whenever possible.

**Complaint by another party about a Roster Lawyer**

Should another party, such as a parent or Caseworker, have a complaint about a Roster Lawyer, they must submit their concerns in writing to the LRCY Manager by completing the complaint form located in APPENDIX 6 and submitting it via.

- Email to [LRCY.Information@ocya.alberta.ca](mailto:LRCY.Information@ocya.alberta.ca), or
- Mail to:

Office of the Child and Youth Advocate  
Attention: LRCY Manager  
 600, 9925 109 Street NW  
 Edmonton AB T5K 2J8

Complaints from another person or party other than the Young Person will not be accepted via phone.

Anonymous complaints will not be accepted. The complainant cannot remain anonymous. The name of the complainant and the details of the complaint will be shared with the Roster Lawyer.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Complaints and Removal of a Roster Lawyer</b>	3.3
Page:	2 of 2	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Termination of appointment**

The complainant may also consider discussing their concerns with their own legal counsel.

After reviewing the complaint, the LRCY Manager may gather information from other involved people and discuss it with the Roster Lawyer. At the conclusion of the review, a written decision will be provided to the complainant.

LRCY does not take direction on the appointment or dismissal of counsel from any other party. Roster Lawyers are independent. Whenever possible, they take direction from their Client. If the Young Person cannot instruct, the Roster Lawyer represents the Young Person's interests. Roster Lawyers do not take direction from any other party or person. The appointed Roster Lawyer will not be removed from the appointment unless it is determined that the Roster Lawyer knowingly failed to comply with the Young Person's instruction or disregarded LRCY Policy or Standards.

Should the complainant be dissatisfied with the complaint outcome, they may raise their concern in writing to the Deputy Advocate.

The LRCY Manager/Deputy Advocate may terminate an appointment if:

- the information upon which the appointment was based was not accurate;
- the Roster Lawyer failed to comply with the policies and procedures (e.g. use of agents for substantive matters, failure to meet with the Young Person);
- there was an administrative error; or
- the quality of representation does not meet LRCY's expectations of an Roster Lawyer as outlined in this policy manual.

Prior to terminating an appointment, LRCY contacts the Roster Lawyer and advises them of the appointment termination.

**Roster Lawyer's request**

A Roster Lawyer may request that LRCY terminate an appointment if serious personal issues arise or circumstances become known that place them at odds with Chapter 7 of The Law Society of Alberta's Professional Code of Conduct.

Should an appointment be terminated by LRCY or the Roster Lawyer, the Roster Lawyer must prepare a file transfer memorandum in accordance with their professional obligations, which details, at a minimum, what steps have been completed, what steps are expected, and any upcoming deadlines.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Working with Others</b>	3.4
Page:	1 of 2	July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

Lawyers frequently represent Young People who actively engage with various people and professionals. In addition to Caseworkers and parents or guardians, other professionals may include other counsel, Caregivers, individual advocates appointed by the Office of the Child and Youth Advocate (OCYA), therapists, teachers, and community advocates. Occasionally, these professionals may advocate for the young person on similar issues as the lawyer.

The lawyer must represent their client while respecting the young person's relationships with other people and professionals.

## Communications

Lawyers must advocate for their clients without causing trauma or harm. Legal representation should be conducted in a manner that respects the client's dignity and fosters trust, ensuring that the client's potential for future relationships remains intact.

Before communicating with another person or party, the Roster Lawyer should consult with the instructing client about any potential communication.

Additionally, the Roster Lawyer should determine whether communication is necessary to gather information that will help develop strategies supporting the young person's position, interests, and entitlements. In this process, the Roster lawyer should:

- Explain their role clearly.
- Only request information that pertains directly to the issue at hand.
- Respect and seek clarification on the professional's role and their ability to share or withhold information (e.g., privilege).
- Assess whether the information shared has been or can be disclosed to the young person. If not, the LRCY Roster Lawyer may assist the young person in accessing that information directly.

## OCYA Advocates

The OCYA may appoint an individual advocate to assist a young person in ensuring that their rights, interests, and viewpoints are represented in decisions made regarding designated services, which do not involve court proceedings. In some cases, a Roster Lawyer may also be appointed.

Professional ethics and privilege bind both roles. Communication between Roster Lawyers and advocates is supported when it advances the young person's instructions, interests, and entitlements.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Appointment and Removal of Legal Representation</b>	3.0
Section:	<b>Working with Others</b>	3.4
Page:	2 of 2	July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Other Counsel**

Roster Lawyers must engage professionally and respectfully with colleagues, adhering to the ethical standards of the Law Society of Alberta. This upholds the integrity of the legal profession and promotes collaboration.

Roster Lawyers should follow the Law Society of Alberta guidelines should they have complaints regarding other lawyers.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer’s Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Expectations of a Roster Lawyer</b>	4.1
Page:	1 of 2	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Introduction**

All Roster Lawyers must act in accordance with the *Legal Profession Act*, the Law Society of Alberta’s *Code of Conduct*, and the *Rules of the Law Society of Alberta*.

A Roster Lawyer who accepts an LRCY appointment is required to carry out legal representation in accordance with the following expectations. The intent is to ensure the Client receives quality services.

**Role of counsel**

Young People have the right to express their opinions and have their legal interests considered in matters affecting them.

Roster Lawyers are appointed to represent the rights, interests, and viewpoints of their Clients. Lawyers must be respectful, timely, and responsive to their Clients.

The default role of counsel is instructional advocacy. The Roster Lawyer obtains the Young Person’s views, preferences, and instructions and puts this information before the court.

When instructional advocacy is not possible, counsel must assume an interests and entitlements position. See Policy 4.5 and Appendix 5 for further Guidelines on the Role of Counsel including conditions that may preclude instructional advocacy, information pertaining to interest-based advocacy, and roles of counsel.

**Conflict of interest**

A Roster Lawyer must not accept an appointment where they have a conflict of interest. The Roster Lawyer must govern themselves according to the Law Society of Alberta’s *Code of Conduct*.

**Scope of work**

The Roster Lawyer must manage their activities within the context and limits of the appointment using the Law Society of Alberta’s Professional Code of Conduct as the basis for delivery of service and management of client matters.

**LRCY Policy & Service Standards**

The Roster Lawyer must adhere to the current version of the LRCY Policy Manual, which is posted on the LRCY website. Lawyers will be evaluated against the Service Standards in Appendix 3 of this Policy.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer's Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Expectations of a Roster Lawyer</b>	4.1
Page:	2 of 2	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Roster Lawyer's attendance**

It is the sole responsibility of an appointed Roster Lawyer to conduct all required meetings (including virtual meetings) with the Young Person, and to attend all hearings.

In the event that the Roster Lawyer cannot meet appointment obligations, or there is a planned or anticipated absence, the Roster Lawyer must contact LRCY as soon as possible to ensure the obligations of the appointment can be met.

**Use of Agent**

The appointed Roster Lawyer has limited discretion to use an agent when significant travel time or waiting time is required for a brief, non-substantive court appearance. The agent must be a lawyer in good standing with the Law Society of Alberta.

Should an agent be required for a substantive court appearance, prior approval from the LRCY manager/Deputy Advocate must be obtained. The Roster Lawyer shall secure an agent, who is a Roster Lawyer who has no conflict of interest.

An agent must not meet face-to-face with a Young Person on behalf of the Roster Lawyer without prior approval from LRCY.

**Use of an Articling Student**

Articling students may be used as agents only for non-substantive court appearances in Alberta Court of Justice.

Articling students must not meet with a Young Person, unless accompanying their Principal, the Roster Lawyer. Prior approval from LRCY is required. Articling students must act in accordance with the *Legal Profession Act*, the Law Society of Alberta's *Code of Conduct*, and the *Rules of the Law Society of Alberta*.

**Recording**

The Roster Lawyer must record on the invoice or case report on how their service complied with the standards and the date they provided the service. If the appointment is for a sibling group, the Roster Lawyer must record how they complied with the standard for each member of the sibling group.

The Roster Lawyer must also record the reasons for not complying with an expectation of LRCY policy or standard.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer's Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Contacting the Young Person</b>	4.2
Page:	1 of 3	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Initial contact**

The Roster Lawyer must contact the Young Person and/or the placement resource within three (3) working days of being appointed.

**Minimum face-to-face contact with the Young Person**

The Roster Lawyer must have at least one (1) face-to-face contact with the Young Person before making final submissions to the court. The Roster Lawyer must meet with the Young Person regardless of whether the Roster Lawyer is taking an Instructional Advocacy role or an Interests and Entitlements (a non-instruction-based) role. The Roster Lawyer will ensure his/her recording clearly indicates:

- which member(s) of a sibling group was/were present;
- the location of the meeting; and
- the date of the meeting.

**Meeting location**

The Roster Lawyer must meet with the Young Person in a location that is most comfortable and suitable for, or selected by, the Young Person. The Roster Lawyer may offer suggestions.

The Roster Lawyer must not request that a Caseworker, Caregiver, or any other community support person drive a Young Person to attend a meeting with the Roster Lawyer. An exception may be made if the Young Person or Caregiver requests that the meeting occur at the Roster Lawyer's office or location other than the Young Person's placement.

If an in-person meeting cannot occur, virtual contact is an acceptable form of face-to-face contact.

**Ongoing contact**

Sufficient ongoing contact with the Young Person is required to:

- assist the Young Person to understand their options and the legal process and applications;
- establish the solicitor-client relationship including confidentiality;
- develop age and developmentally appropriate relationship with the Young Person;
- fully understand the Young Person's stage of development, personality and need;
- determine the Young Person's view and preferences; and
- determine their ability to instruct.

**Final contact**

If the Young Person is 8 years old or over, the Roster Lawyer must have at least one (1) contact with the Young Person after the court makes its final determination in the matter. The purpose of this contact is to explain

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer's Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Contacting the Young Person</b>	4.2
Page:	2 of 3	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

the outcome and implications, and describe any legal options available to the Young Person.

Final contact does not need to be face-to-face (including virtual); contact by telephone, text, or other correspondence will suffice.

A reasonable exception could be made to the requirement for a final contact if:

- the Young Person would not understand the information due to a cognitive or developmental delay;
- the parent/guardian refused to allow contact; or
- the Roster Lawyer attempted but was unable to make contact within 45 days because of the Young Person's circumstances, such as:
  - the Young Person has said they do not want further contact;
  - the Young Person does not return calls;
  - the Young Person does not attend arranged meetings;
  - the placement changed and the Roster Lawyer was not informed; or
  - the location of the Young Person is unknown (AWOL).

A Roster Lawyer must record and communicate to LRCY the reason why they did not have final contact with the client.

## STANDARD

**STANDARD 1 - The appointed Roster Lawyer has a minimum of one (1) face-to-face contact with each Young Person prior to final submissions to the court.**

### Exception

A reasonable exception could be made to the requirement for mandatory face-to-face contact if:

- the Young Person was in a temporary placement, such as hospital for treatment and could not talk to or meet with the Roster Lawyer;
- the Young Person does not have access to stable or reliable technology for virtual contact and resides in a remote or distant location and contact was made by phone,
- the Young Person does not have access to stable or reliable technology for virtual contact and there was no time for face-to-face contact between appointment date and final court hearing and contact occurred by phone;
- the court does not permit new evidence (such as for an Appeal) or has not given leave for the matter to proceed (such as for a S.35.1.1 Application);
- the Roster Lawyer was unable to arrange a face-to-face meeting before the court hearing because of the Young Person's circumstances, such as:

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer's Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Contacting the Young Person</b>	4.2
Page:	3 of 3	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

- the Young Person does not return calls;
- the Young Person does not attend arranged meetings;
- the placement changed and the Roster Lawyer was not informed;
- the location of the Young Person is unknown (AWOL); or
- The application was terminated and the Young Person was returned home before the first substantive court appearance.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer’s Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Gathering Information</b>	4.3
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Introduction**

The Roster Lawyer must gather and examine all information needed to provide high-quality legal representation to the Young Person. The Roster Lawyer gathers information from a wide variety of sources including:

- the Young Person;
- significant parties (e.g. family members, Caregivers, Caseworkers and other counsel);
- assessments, disclosure, and other documentation;
- Judicial Reviews and mediation processes; and
- other correspondence.

**Disclosure**

When appropriate, the Roster Lawyer must request disclosure from Child Intervention Services for professional assessments or reports that are contained in the Young Person’s Child Intervention Services record.

**Requesting assessments**

If the Roster Lawyer determines that a new assessment is needed for the current court matter, the Roster Lawyer must:

- Record the reason existing assessments are not adequate;
- Consider cost-sharing with other parties;
- Determine the cost of obtaining a new assessment, including a section on cultural connections, and including any required expert testimony; and
- Obtain prior approval from the LRCY Manager/Deputy Advocate to be reimbursed for the costs not to exceed \$3000.00.

See section 6.1 Expert Services ESS02-EES03 for detail

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer’s Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Attending Court</b>	4.4
Page:	1 of 2	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Introduction**

The LRCY appointment is directed to a named Roster Lawyer. The Roster Lawyer must attend the initial hearing and all other hearings of substance. The Roster Lawyer may use an agent to attend a non-substantive hearing such as one where all parties are agreeing to an adjournment or dates are being set for future hearings. The Roster Lawyer shall inform the Young Person and LRCY of any agent usage for substantive appearances (See 4.1 regarding Use of Agents).

**Appointed Roster Lawyer absence**

If an unanticipated emergency situation arises making it impossible for the Roster Lawyer to meet appointment obligations, the Young Person and LRCY must be promptly notified of the situation.

The Roster Lawyer must make every effort to obtain prior approval from the LRCY Manager/Deputy Advocate before finalizing alternative arrangements.

The Roster Lawyer’s request for short-term substitution will be considered by LRCY; but such a request is not assured or encouraged and must include written justification.

**Adjournments**

Unless in exceptional circumstances, the Roster Lawyer must not request an adjournment to meet their own needs. The Roster Lawyer makes every effort to accommodate the hearing schedule and accepts an appointment only if able to attend the initial hearing or matter.

**LRCY Roster Lawyer as agent**

The Roster Lawyer will not invoice LRCY for any time spent acting as agent for another party.

**First appearance**

Appointments will only be made if the Roster Lawyer is able to attend the first appearance. First appearances or initial hearings are considered substantive. It is important that Roster Lawyers be:

- noted on the record as early as possible in the proceedings;
- available if the matter proceeds; and
- there to set dates that are manageable.

The LRCY manager/Deputy Advocate may waive the requirement to attend the first appearance if the Roster Lawyer has previously represented the Young Person.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer's Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Attending Court</b>	4.4
Page:	2 of 2	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**STANDARD**

**Exceptions**

**STANDARD 2 - The Roster Lawyer attends all substantive hearings.**

A Roster Lawyer may use an agent without prior notice to LRCY if:

- all parties agree in advance to adjourn the first appearance; or
- the Roster Lawyer could not attend court due to an urgent personal matter, such as illness, accident or injury.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer's Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Representing the Young Person's Views in Court</b>	4.5
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

The Roster Lawyer must seek to understand and put before the court the Young Person's views, preferences, and interests. To gain this understanding, the Roster Lawyer must evaluate the Young Person's views based on considerations that include:

- the autonomy, strength, and consistency of the Young Person's views and preferences;
- the circumstances surrounding the Young Person's views and preferences; and
- all other relevant evidence about the Young Person's interests.

Regardless of what role the Roster Lawyer takes, they must advise the Young Person of their procedural rights to the extent that the Young Person is able to understand. See Appendix 5 for the Guidelines on the Role of Counsel.

## Instructional advocacy

The Roster Lawyer appointed by LRCY must assume an Instructional Advocacy role when representing a Young Person who is able to express a wish, opinion, or position unless there are conditions present that would preclude counsel from doing so. Roster Lawyers must assess each Young Person individually to determine if there are factors present that would preclude the Roster Lawyer from assuming the role of an instructional advocate.

The Roster Lawyer obtains the Young Person's views, preferences, and instructions and puts this information before the court.

## Non-instruction-based advocacy

If taking an Interests and Entitlements (a non-instruction-based advocacy) role, the Roster Lawyer must:

- To the extent the Young Person is able to understand, make the Young Person aware of the Roster Lawyer's role;
- To the extent the Young Person is able to express, obtain the Young Person's views and preferences;
- Inform the court of the advocacy role being taken; and
- Put the Young Person's views, preferences, and interests before the court.

## STANDARD

**STANDARD 3 - The Roster Lawyer assumes an Instructional Advocacy role unless precluding conditions exist.**

### Exception

The Roster Lawyer clearly identifies to LRCY the presenting conditions that warrant an Interests and Entitlements advocacy role.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Roster Lawyer's Legal Services Provided to a Young Person	4.0
Section:	Advising the Young Person of their Procedural Rights	4.6
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

All Young People have rights, regardless of their age.

## Procedural rights

A brief overview of the Young Person's rights is described below. Roster Lawyers must explain the applicable rights to their client to the extent that the Young Person can understand:

- a Young Person has the right to have a lawyer represent them in court;
- a Young Person has "party" status with respect to proceedings under the *Enhancement Act*. This means they are allowed to participate formally and actively in the proceedings;
- the Young Person has the right to appeal a SO, TGO or PGO of which they are the subject, within 30 days of the judge making the order.

A Young Person over the age of 12:

- has the right to be advised of the nature, date, time, and place of every court hearing about themselves. Although it is their right to attend court and express their opinion, the justice can decide not to allow the Young Person to attend;
- has the right to request 1 (one) court review of any SO or TGO of which they are the subject;
- subject to a TGO or PGO, has the right to apply for an Access Order, say yes or no to an Access Order, and to request the court review the Access Order;
- subject to a PGO, has the right to say yes or no to an Access agreement;
- has the right the right to say yes or no to an Adoption or Private Guardianship Order that is being made about them;
- has the right has the right to receive a copy of a Private Guardianship Order of which the Young Person is the subject.

Secure services/PSECA confinement:

- the Young Person has the right to receive an explanation for the confinement and to be advised that the order may be reviewed or appealed.

## Exception

An exception may be made if the Roster Lawyer documents the reason why the Young Person would not be able to understand their procedural rights.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Roster Lawyer’s Legal Services Provided to a Young Person</b>	4.0
Section:	<b>Case Reporting</b>	4.7
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Introduction**

Roster Lawyers must report to LRCY to confirm that they have met all of the expectations of their appointment, as outlined in Tab 4 of this manual.

Information regarding the status of a case is required for

- providing LRCY with a record for determining whether the terms of the appointment are being met or have been met; and
- evaluating whether the Roster Lawyer has met the LRCY Service Standards for legal representation (see Appendix 3).

**Case status reporting requirements**

Case reporting must be completed at the conclusion of the appointment. The Roster Lawyer is required to complete all reporting on the Lawyer Appointment and Payment System – Lawyer Self Serve.

Within the Lawyer Activities section of the database, Roster Lawyers will inform about their:

- attendance at court
- contact with each Young Person and
- the role they used in their representation of each Young Person

The Roster Lawyer’s invoicing must reflect the following:

- contact with the Young Person or their Caregiver within three working (3) days of the appointment;
- face-to-face contact with the Young Person before making submissions to the court;
- face-to-face meetings and all other contacts with the Young Person;
- contact with the Young Person over eight (8) years old after the court has rendered a decision;
- information gathering activities undertaken by the Roster Lawyer (e.g. request to the director for disclosure);
- the court was advised of the Young Person’s views and preferences;
- the role assumed by counsel in representing the Young Person
- attendance at all “hearings of substance” and any use of agents to attend court; and
- the Client was advised of their procedural rights.

Failure to provide the required information may result in termination of the roster agreement.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Quality Assurance</b>	5.0
Section:	<b>Overview</b>	5.1
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

LRCY’s mandate is to ensure that all Young People have access to representation by Roster Lawyers who are knowledgeable and skilled in law. As a result of the rotational appointment process, a Roster Lawyer new to the practice of Child and Youth representation may occasionally find him/herself in the position of handling complex cases. LRCY retains the right to review the Roster Lawyer’s eligibility (e.g. whether the Roster Lawyer is able to speak the Young Person’s language) and experience and to decline making an appointment to the next Roster Lawyer available in the rotation on the grounds that the Roster Lawyer may not have the necessary ability to take the assignment in question.

In an effort to provide the highest quality of legal representation, LRCY may implement mandatory services and programs.

## Authority of LRCY to ensure quality legal representation

If the quality of legal representation is called into question, LRCY may do one or more of the following:

- refer the matter to the Law Society of Alberta;
- discontinue an appointment;
- terminate the Roster Agreement; or
- take any other action required under the circumstances.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Quality Assurance</b>	5.0
Section:	<b>Quality Assurance Reviews</b>	5.2
Page:	1 of 1	Updated: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

### **Introduction**

LRCY completes Quality Assurance Reviews (QA Review) on each Roster Lawyer.

### **QA Review process**

On an annual basis, LRCY reviews the case reporting, Client feedback surveys received on closed appointments, any formal complaints received, and reported training completed.

- The Roster Lawyer is informed of the outcome of the review.

### **Client Survey**

Young People who were 12 years old at the time of the appointment, have an opportunity to respond to a survey after the legal appointment is complete if they remain involved with Child Intervention Services. The purpose is to determine the Young Person's satisfaction with the Roster Lawyer and if:

- the Young Person felt they received respectful, timely, and responsive services from the Roster Lawyer; and
- the Young Person felt supported and had the opportunity to be involved in advocating for what they wanted in court.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Quality Assurance</b>	5.0
Section:	<b>Mentor Program</b>	5.3
Page:	1 of 2	Effective: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

While some lawyers have access to the professional support and guidance of colleagues, many other lawyers practice more independently and do not have the benefit of informal consultation with more experienced lawyers. A mentor program provides Roster Lawyers with access to expertise in procedural and substantive law, as well as guidance related to file management, as required.

## Role of designated mentors

Designated Mentors provide professional support and guidance as requested or solicited by a Requesting Lawyer. Designated Mentors must not supervise lawyers who seek guidance and support from them.

## Responsibility of requesting lawyer

The lawyer named in the LRCY appointment is the sole legal representative for the child/youth. Prior to accessing the services of a Designated Mentor through the LRCY Mentor Program (see Appendix 4), each Requesting Lawyer must sign an Acknowledgment Form and return it to the LRCY office. An Acknowledgment Form needs only to be signed once by a Requesting Lawyer, regardless of the number of times the Requesting Lawyer accesses the services of a Designated Mentor.

## Mentor selection

Any Roster Lawyer may apply to become a Designated Mentor. From the applications received, the LRCY Manager/Director selects lawyers from each region of the province to serve as mentors. Selection is based on the following attributes:

- expertise in the substantive and procedural issues related to child/youth representation;
- demonstrated interest in helping new lawyers grow professionally and a willingness to share professional experience and knowledge;
- accessibility; and
- excellent interpersonal skills.

## Access to mentor support

An appointed Roster Lawyer has access to guidance and support of a mentor. The lawyer may consult with more than 1 mentor, of their choice, in relation to different matters. There are no limits on the frequency or duration of time that a Requesting Lawyer may access mentor support through the LRCY Mentor Program. However, time in excess of 15 billable hours per Designated Mentor requires prior approval from the LRCY Manager/Deputy Advocate.

## Compensation of mentors

Designated Mentors are compensated at \$150 per hour for their time spent providing mentoring services. Subject to prior approval from the LRCY Manager/Director, a Designated Mentor is restricted to billing the

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Quality Assurance</b>	5.0
Section:	<b>Mentor Program</b>	5.3
Page:	2 of 2	Effective: February 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Professional responsibility of designated mentor and requesting lawyer**

LRCY service for up to a maximum of 15 mentoring hours per Requesting Lawyer.

A Designated Mentor and a Requesting Lawyer must exercise professional discretion in ensuring compliance with the confidentiality requirements of Chapter 6 of the Professional Code of Conduct, while also taking the necessary steps to actively guard against conflicts of interest and ensure compliance with Chapter 7 of the Professional Code of Conduct.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Tariffs and Fees</b>	6.1
Page:	1 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

**Introduction**

Legal fees and disbursements incurred by Roster Lawyers are paid or reimbursed by LRCY according to the tariffs and fees set out in this policy.

An LRCY Roster Lawyer may claim the following eligible LRCY tariffs and fees (see Appendix 1):

**Legal services & related costs**

SRV01 – SRV07, Legal Services and Related Costs – based on a pre-set hourly rate for Roster Lawyers and related costs.

**Expert & support services**

ESS02 – ESS03, Expert and Support Services – reimbursement of specialists’ costs to a maximum.

**Administration costs**

ADM01 – ADM05, Administration Costs – LRCY appointment-specific administration costs.

**Travel**

TRV01 – TRV16 and TRV50, Travel – allowances and eligible travel costs within and between communities and LRCY regions.

**Meals & accommodations**

MAA01R – MAA02P, Meals and Accommodations – reasonable costs for food and lodgings while on authorized LRCY business.

**Payment to the Roster Lawyer for services rendered**

LRCY will pay the Roster Lawyer based on a self-assessing and professional conduct model. A single, fixed, hourly rate is used in all regular appointments for the life of the appointment, unless revised as part of a general update of LRCY tariffs and fees.

**Per diem claims and overlapping charges**

To reduce the administrative effort involved in small cost items, per diems have been established for several eligible costs. Per diem costs are date specific and therefore must not overlap with equivalent detailed charges for the same day.

**Block maximums**

Detailed control over some services has been removed and replaced with block funding maximums. An example of this approach is found in the Expert and Support Services (ESS) section where a maximum has been established.

**Receipted & non-receipted chargeable items**

The Roster Lawyer must provide original, scanned, or faxed receipts or supporting documentation for all eligible expenses and costs unless claiming a per diem item. Lawyers must retain scanned or faxed receipts for a minimum of 3 years for audit purposes. The receipts must clearly show the cost, exclusive of GST. For telephone bills, fax and

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Financial Administration of Services	6.0
Section:	Tariffs and Fees	6.1
Page:	2 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

**Concurrent cases**

courier logs/invoices, if the costs are not exclusive to the work performed for LRCY, copies of receipts are acceptable. Receipts and logs must be forwarded to LRCY Finance at the time of invoice submission.

If the Roster Lawyer incurs costs related to multiple LRCY appointments, the Roster Lawyer may claim the amount against one (1) appointment. This removes the administrative burden on the Roster Lawyer to allocate this cost across multiple appointments. LRCY prefers that the cost is invoiced on the appointment that the Roster Lawyer expects to conclude first. The Roster Lawyer must specify on the invoice which appointments have the split costs.

**Special costs at the direction of the LRCY Manager/Deputy Advocate**

In rare circumstances, unique appointment needs and related costs may arise. The LRCY Manager/Deputy Advocate retains full authority and discretion to review and approve or reject exceptional charges to the billing and payment processes defined in this document.

**GST**

The Office of the Child and Youth Advocate is GST exempt. Invoices must exclude all GST amounts.

**Legal services and related costs (SRV01-SRV05)**

The LRCY Roster Lawyer is paid an hourly fee as defined in the *LRCY Tariffs and Fees* (Appendix 1). Legal services must be delivered solely by the Roster Lawyer, unless prior arrangements have been made with LRCY.

The following costs are not eligible for reimbursement:

- opening an LRCY Client file;
- closing an LRCY Client file;
- invoicing on an LRCY Client file; or
- reporting on an LRCY Client file.

**Non court time (SRV01)**

There is a 30-hour maximum claim for non-court time (including SRV01, SRV01F, SRV01L, and SRV01S), which may be extended with the approval of the LRCY Manager/Deputy Advocate. SRV01 claims must be billed for the date the specific activity occurred and cannot exceed 16 hours in 1 day.

Eligible legal services claims include:

- contact with Client that is not face-to face including debriefing upon completion of court matter;
- reviewing documents;
- negotiations and correspondence;

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Tariffs and Fees</b>	6.1
Page:	3 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

**Requests for additional SRV01 Hours**

- legal research;
- no show or missed face-face appointment with Roster Lawyer max 30 minutes local or virtual, or 1 hour extended travel;
- concluding matters, (exclusive of closing, invoicing or reporting on Service Standards); and
- court preparation.

If the appointed Roster Lawyer is of the opinion that additional non-court hours (beyond the 30-hour maximum) are required, the Roster Lawyer must make an on-line request to the LRCY Manager/Deputy Advocate specifying:

- the number of additional hours being requested;
- a breakdown of why additional hours are required;
- the current status of the matter;
- an explanation of how the non-court hours have been spent to date including:
  - the time spent communicating with the Client
  - the number of pages of disclosure read
  - the types of information gathered and reviewed
  - how the information reviewed informed the Client's position
- how the Young Person's position has been advanced at court
- the other parties involved;
- the complicating factors;
- the efforts taken to seek earlier resolution; and
- the likelihood that the matter will be concluded within the additional hours requested.

The Roster Lawyer may request up to 30 additional hours at a time. Approval of additional non-court hours is at the discretion of the LRCY Manager/Deputy Advocate or delegate.

The Roster Lawyer, articling student, or agent may be eligible for travel costs under the section **Travel**. SRV01 rates cannot be claimed for travel costs.

**Roster Lawyer – non-court hours face-face meeting with Client (SRV01F)**

For face-to face contact with their Client, Roster Lawyers will use SRV01F to document this interaction. Face-to-face meetings includes in person and virtual meetings with the Young Person.

**Lawyer's Agent non-court time (SRV01L)**

If the Roster Lawyer has utilized an agent, the agent court prep fees can be claimed with accompanying invoice/receipt from the agent. Agent travel costs should also appear on the invoice/receipt and should be entered on LAPS-LSS with the correct corresponding codes.

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Financial Administration of Services	6.0
Section:	Tariffs and Fees	6.1
Page:	4 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

	<p>If there were no agent fees, the Roster Lawyer must still report to the LRCY Manager/Deputy Advocate that an agent was used. See Appendix 1 for details on reporting.</p>
<p><b>Articling Student non-court time (SRV01S)</b></p>	<p>There is a 10-hour maximum for articling student non-court time per appointment. Eligible legal services include assisting the LRCY Roster Lawyer to review documents, conduct research, and prepare trial binders.</p>
<p><b>Court time (SRV02)</b></p>	<p>There are no appointment maximums for attendance in court.</p> <p>If the Roster Lawyer requests an adjournment for personal reasons or because of their scheduling conflicts (whether in person or through an agent), the court time and related costs associated with the adjournment (e.g. travel per diem) are not eligible for payment. <b>A Roster Lawyer’s scheduling conflict should not impact the Young Person’s right to a timely decision.</b></p> <p>If an adjournment is required due to illness or injury (whether an agent is utilized or not) court time and related costs are eligible for payment.</p>
<p><b>Court time – Agent (SRV02L)</b></p>	<p>If the Roster Lawyer has utilized an agent, the agent court fees can be claimed with accompanying invoice/receipt from the agent.</p>
<p><b>Court time – Articling Student (SRV02S)</b></p>	<p>If there were no agent fees, the Roster Lawyer must still report to the LRCY Manager/Deputy Advocate that an agent was used. See Appendix 1 for details on reporting.</p> <p>An articling student may appear on behalf of the Roster Lawyer in Court on an agreed upon adjournment or when the purpose of the appearance is to set dates. An articling student should not appear on behalf of the Roster Lawyer for a matter of substance. There is a 5-hour maximum for student appearance per appointment.</p>
<p><b>Filing fees &amp; Transcript costs (SRV03 – SRV04)</b></p>	<p>Pre-approval by the LRCY Manager/Deputy Advocate is required for all transcript costs. Lawyers must provide an estimate from Transcript Management Services along with their request for pre-approval.</p> <p>Receipts are required for filing fees and transcript costs.</p>
<p><b>Court delays (SRV05)</b></p>	<p>If a court delay occurs and the Roster Lawyer is required to remain at the court, the Roster Lawyer may claim up to 2 hours of their time, per occurrence. During this 2-hour period, billing for other LRCY business is not allowed. Time claimed due to court delays is excluded from the</p>

LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL		
Tab:	Financial Administration of Services	6.0
Section:	Tariffs and Fees	6.1
Page:	5 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

**Expert and support services (ESS02-EE03)**

Roster Lawyer’s maximum of 30 hours of non-court time per appointment.

Expert assessments, testimony, and related costs (e.g., travel costs) are eligible for reimbursement up to a maximum cumulative amount of \$ 3,000.00 per appointment (see Appendix 1). Expert and support services must be pre-approved by the LRCY Manager/Deputy Advocate. Payment for these services requires original receipts and is reimbursed at cost through the routine Roster Lawyer billing process.

Typically, Child Intervention Services is responsible for expert services, and existing assessments should be used where possible. Young People should be subjected to the least amount of assessment possible. If the Roster Lawyer is of the opinion that an assessment is required, the Roster Lawyer must make a written request to the LRCY Manager/Deputy Advocate addressing the following:

- purpose of the assessment;
- who is to be assessed; (e.g. Young Person)
- does Child Intervention Services have a relevant assessment?
  - if not, have you requested that the Caseworker obtain one?
  - if Child Intervention Services has an assessment, why is another necessary?
- why should the “Child party” be responsible to cover the assessment?
- what are the expert’s qualifications?
- has cost sharing been explored with other parties?
- the estimate of costs.

**Witness Fees**

Lawyers may request pre-approval for witness fees. A Notice to Attend or similar document must accompany the request.

**Administrative costs (ADM01-ADM05)**

Receipted administrative costs directly related to the delivery of LRCY appointments are eligible for reimbursement, including:

- miscellaneous costs: unique administrative costs directly related to the LRCY appointment but not specifically covered by the remaining categories;
- photocopy and courier services;
- long distance charges;
- pleading records;
- transcripts provided to experts;
- undertakings.

The administration costs associated with the following tasks are not eligible for reimbursement:

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Tariffs and Fees</b>	6.1
Page:	6 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

- opening an LRCY Client file;
- closing an LRCY Client file;
- invoicing on an LRCY Client file
- reporting on an LRCY Client file; or
- storing an LRCY Client file.

**Travel  
(TRV01-TRV11)**

Travel costs are categorized as:

- Local Travel (less than 35 km each way): where the Roster Lawyer is travelling from their base of operations to meet an LRCY appointment obligation and the distance is 35 kilometres or less;
- Extended Travel (35 km or more each way): where the Roster Lawyer is travelling from their base of operations to meet an LRCY appointment obligation and the distance is more than 35 kilometres. When on out-of-town travel status, the Roster Lawyer may also be eligible to claim other costs such as meals, accommodations, or airfare.

**Travel time**

The Roster Lawyer is eligible for travel time based on kilometres travelled, regardless of the mode of transportation. (TRV03, TRV04, TRV15, TRV16) Please see Appendix 1, Quick Reference Guide – Tariffs and Fees.

**Travel – Local**

Eligible claims for travel and associated costs within the community are:

- payment at a per diem rate for Client visits (includes vehicle, time, parking); Cannot overlap other parking, kilometre, and travel related charges (TRV50);
- vehicle costs based on logged kilometres, reimbursed at a pre-set rate, per kilometre (Client – TRV06);
- parking with receipts (TRV07) and without receipts (TRV08);
- taxi costs up to \$75, including up to 15% gratuity, with receipts – preapproval to exceed amount, excludes local travel to court (TRV09)
- other local travel (TRV09), e.g. light rail transit and local bus, excludes local travel to court;
- Roster Lawyer travel time based on logged kilometres, reimbursed at a pre-set rate (Client – TRV16).

**Travel – Extended**

There is no reimbursement for travel to local court that occurs in the Roster Lawyer base area.

Eligible claims for travel and associated costs between the Roster Lawyer’s base of operations and the destination community may include:

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Tariffs and Fees</b>	6.1
Page:	7 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

**Travel reimbursement**

- vehicle costs based on logged kilometers, reimbursed at a pre-set rate per kilometer (court – TRV01, Client – TRV02);
- parking with receipts (TRV07) and without receipts (TRV08);
- taxi up to \$75 including up to 15% gratuity with receipts (receipted (TRV09) – preapproval required to exceed amount;
- airfare with receipt (TRV10);
- other transportation, e.g. bus, vehicle rental (TRV11);
- Roster Lawyer travel time based on logged kilometres, reimbursed at a pre-set rate (court – TRV03, Client – TRV04);

The Roster Lawyer must consider cost-effectiveness when choosing a mode of transport (e.g., vehicle rental and associated costs are often more cost-effective than vehicle-kilometre costs when travelling over 100 km). Out-of-town travel claims preclude local travel claims for the same day, except for related costs to and/or from airport locations (such as receipted airport parking or taxi/rental vehicle costs).

**Other transportation (TRV11)**

The Roster Lawyer must obtain pre-approval from the LRCY Manager/Deputy Advocate or delegate for public transportation costs (e.g. airfare, bus) **only** if the cost exceeds the vehicle costs by kilometres.

**Car rentals (TRV11)**

Reimbursements of vehicle rental costs (fees, insurance, and/or gas with receipts) are eligible. The Roster Lawyer must obtain pre-approval from the LRCY Manager/Deputy Advocate or delegate **only** for vehicle rental costs that exceed the vehicle costs by kilometres. Vehicle rental costs are also eligible for reimbursement without prior approval if the Roster Lawyer has taken a flight (with approval, if required) for a portion of the trip.

NOTE: LRCY reimburses fuel only if purchased directly from a filling station. Fuel expenses charged by the rental agency are not reimbursed.

**Airport wait time (SRV07)**

Airport wait time may be reimbursed up to a 2-hour maximum at a pre-set rate. When the Roster Lawyer is approved for air travel and the plane is delayed, the Roster Lawyer may claim up to 2 hours of their time at a rate of \$50.00 per hour or until the flight is cancelled, whichever occurs first. During this 2-hour period, billing for other LRCY business is not allowed. Time claimed due to flight delays/cancellations is excluded from the Roster Lawyer’s maximum of 30 hours non-court time per appointment. If the Roster Lawyer misses the scheduled flight and is required to wait for the next available one, they are not eligible to claim for airport wait time.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Tariffs and Fees</b>	6.1
Page:	8 of 8	Updated: April 1, 2026
Authorized by:	Deputy Advocate, Direct Advocacy	

**Meals & accommodations (MAA01R-MAA02P)**

**Meals**

Claims for meals may apply to a Roster Lawyer who is meeting with their Client over a meal or on out-of-town travel status when they have completed 3 hours of continuous LRCY related work and/or travel.

When meal allowances are permitted, the Roster Lawyer may claim the per diem amounts specified in Appendix 1. These amounts include gratuity.

If the Roster Lawyer and their Client are continuing discussions over a meal, the Roster Lawyer may submit a claim for the cost of the Young Person’s meal, regardless of the Roster Lawyer’s travel status. The Roster Lawyer may claim (with original receipts) a reasonable cost for meals for the Young Person, excluding GST, and a maximum 20% gratuity. The Roster Lawyer may also claim the cost of their meal up to the meal per diem rates while meeting with the Client.

The Roster Lawyer may not claim the cost of the meals for other professionals in attendance at the meetings, such as drivers or Caseworkers.

All meal claims exclude the cost of alcoholic beverages.

**Accommodations**

Commercial or private accommodation costs may be eligible when on out-of-town travel status.

Accommodation claims are reimbursed based on the following considerations:

- actual and reasonable expenses for moderate commercial accommodations (MAA02);
- private accommodations - private non-commercial residences at a set maximum rate per night. Receipts and prior approval by the LRCY Manager/Deputy Advocate are not required (MAA02P); and
- duration of the stay is reasonable based on the delivered services and related factors (e.g. second LRCY appointment in the vicinity).

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Invoicing and Payment for Services</b>	6.2
Page:	1 of 4	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

## Introduction

The Roster Lawyer must ensure that invoicing is complete and accurate, includes all required case reporting, and is received by LRCY within the required period after the services are provided to the Young Person.

Every invoice must be submitted through the LRCY online Legal Appointment and Payment System (LAPS) – Lawyer Self-Serve Module.

## Vendor set up

Each Roster Lawyer must be an LRCY vendor on the Government of Alberta's (GOA) accounts payable system. Prior to a Roster Lawyer's acceptance of their initial appointment, the Roster Lawyer is provided a Vendor Set Up form and is asked to complete and return it to LRCY.

## Submission of account information

Typically, invoices are processed on a regular monthly cycle. This process includes monthly billing for prior services and costs and a stringent fiscal year-end process that occurs on March 31<sup>st</sup>, the OCYA's fiscal year-end.

The Roster Lawyer must ensure that all work performed up to and including March 31<sup>st</sup> is on a separate invoice from post-March 31 work and is invoiced by April 15<sup>th</sup>.

An invoice must indicate whether it is an interim or final billing. Invoices must be appointment specific. Using a single appointment per invoice, and submitting claims in a timely fashion, improves the payment turnaround time by avoiding delays due to completion and verification problems.

## Invoicing for incomplete appointments

If an appointment is terminated before the conclusion of the matter, whether the Roster Lawyer is dismissed or requests the termination,

- The Roster Lawyer must submit a final invoice within 30 days of the termination becoming effective;
- Payment for services rendered may be negotiated based on services provided to date, but in any event, LRCY will determine the amount due for services rendered within 90 days of receiving the final invoice and will advise the Roster Lawyer of the amount of that time.

## Payment schedule & interest

The GOA makes payments by cheque and direct deposit. Payments are typically made within 45 days from receipt of the invoice. Issues arising regarding the accuracy, completeness, and/or acceptability of the invoiced amounts may delay the payment process. *Treasury Board Directive 04-85* documents the conditions related to interest on overdue accounts.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Invoicing and Payment for Services</b>	6.2
Page:	2 of 4	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**Account corrections & final invoice**

The Roster Lawyer must clearly identify that no further billing will be made for the appointment on the final invoice. Corrections to the final invoice may be submitted to LRCY within 60 days of the invoice date or 30 days after the payment date, whichever is later. If the Roster Lawyer subsequently detects errors, revisions will be made only with the approval of the LRCY Manager/Deputy Advocate.

Any account correction must be addressed in a timely fashion by communicating the nature and reason for the change to LRCY as soon as it becomes known.

**Audit of claims & review of material**

LRCY reserves the right and discretion to obtain supporting information or justification regarding invoiced amounts from the Roster Lawyer for 3 years for audit purposes following receipt of the final invoice for the appointment.

**Retention of appointment information**

The Roster Lawyer must retain, and make available on request from LRCY, any or all information about a specified appointment for 1 year after submitting charges marked 'final invoice' by the Roster Lawyer.

**Withholding payment**

Payment for services rendered is only made once the Appointment Letter is accepted by the Roster Lawyer on LAPS-LSS.

**Invoice & status reporting requirements**

All charges must be supported with original receipts and/or documentation. The Roster Lawyer must retain the original receipts for a minimum of three years for audit purposes. Scanned copies of receipts must be submitted when submitting the invoice online.

**Submitting invoices**

Interim invoice – While the appointment is active, the Roster Lawyer must submit an interim invoice monthly for all legal services provided to the Young Person during that month (since the last interim invoice);

- unless no legal services were provided during that month; and
  - excepting active matters for which no legal services were rendered more than 365 days since the date that the Roster Lawyer last submitted an invoice for that matter, for which the Roster Lawyer must submit an invoice before the expiration of the 365 days, even if the amount payable is nil. This shall be recorded as ADM01 at \$0.01.
- ensuring this invoice is received by LRCY by the 15th of the following month.

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Invoicing and Payment for Services</b>	6.2
Page:	3 of 4	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

### Invoice reporting requirements

Final invoice – Once the court has made its final determination in the matter, the Roster Lawyer must conclude all legal services within 45 days and submit the final invoice within 75 days of the final determination. If a matter otherwise concludes without the court making a final determination, the Roster Lawyer must submit the final invoice within 30 days of concluding.

LRCY requires the following information in order to process an invoice:

- LRCY appointment number;
- name of the Roster Lawyer providing services and location of practice;
- name of the payee;
- invoice date;
- period being invoiced (from/to dates);
- final or interim billing; and
- Tariffs and Fees Claim as per Appendix 1:
  - date(s) of services provided and costs incurred
  - location(s) for travel
  - nature of service (e.g., a telephone call to the director's counsel)
  - allowance, per diem, documented or receipted amounts
  - party receiving benefit (e.g., Young Person's meal).

Charges claimed must be accurate and reasonable. LRCY may request clarification and/or supporting justification for the charges if the claim is considered unique or unusual. LRCY will refuse unreasonable claims.

### Failure to submit an invoice

Failure of the submitting Roster Lawyer to meet any or all of the invoicing requirements will result in refusal or delay of payment by LRCY, including but not limited to:

- if a matter concludes with the court making a final determination, the LRCY will not pay for outstanding legal services rendered unless the Roster Lawyer submits the final invoice within 75 days after the court makes its final determination in a matter;
- if a matter concludes without the court making a final determination, the LRCY will not pay for outstanding legal services rendered unless the Roster Lawyer submits the final invoice within 30 days of the matter concluding;
- if a Roster Lawyer's appointment is terminated (whether by dismissal or withdrawal) while a matter is active, the LRCY will not pay for outstanding legal services rendered unless the Roster Lawyer submits the final invoice within 30 days of the termination of the appointment;

<b>LEGAL REPRESENTATION FOR CHILDREN AND YOUTH POLICY MANUAL</b>		
Tab:	<b>Financial Administration of Services</b>	6.0
Section:	<b>Invoicing and Payment for Services</b>	6.2
Page:	4 of 4	Updated: July 1, 2025
Authorized by:	Deputy Advocate, Direct Advocacy	

**OCYA File Closure**

- in all cases, the LRCY will not pay for legal services rendered more than 365 days from the date that the Roster Lawyer last submitted an invoice with respect to any appointment.

In the event no final invoice is received, OCYA may close its file after 1,045 days of inactivity. Once a file is closed, further invoicing will not be accepted.

**Appendix 1**  
Quick Reference Guide – Tariffs and Fees  
Effective July 1, 2025

All logs and receipts must be emailed to: [ocya.finance@ocya.alberta.ca](mailto:ocya.finance@ocya.alberta.ca)

Tariff or Fee	Allowable \$ per Unit	Maximum Units	Maximum Amount
<b>LEGAL SERVICES AND RELATED COSTS</b>			
<b>SRV01</b> Hourly rate non-court time (Maximum 30 hours per appointment/ maximum 16 hours per day)	\$125 per hour	30 hours (16 hours per day max)	
<b>SRV01F Lawyer face-to-face meetings with client</b> (Maximum 0.5 hours for a missed meeting or last minute cancellation.)	\$125 per hour		
<b>SRV01L Lawyer’s agent hourly rate non-court time Agent</b>	With a receipt, \$125 per hour With no receipt, enter 0.05 hours		
<b>SRV01S Lawyer’s Articling Student Hourly rate non-court time</b>	\$92.5 per hour	10 hours max per appointment	
<b>SRV02</b> Hourly court time	\$125 per hour		
<b>SRV02L Lawyer’s Agent Hourly court time</b>	With a receipt, \$ 125 per hour With no receipt, enter 0.05 hours		
<b>SRV02S Hourly court time Articling Student</b>	\$100 per hour	5 hours max per appointment	
<b>SRV03</b> Filing Fees (receipted)	At cost		
<b>SRV04</b> Transcript Costs (receipted)	At cost Pre-approval required		
<b>SRV05</b> Court waiting time due to external factors (Not caused by appointed lawyer)	\$125 per hour	Up to 2 hours	\$250 daily maximum
<b>SRV07</b> Airport wait time	\$50 per hour	Up to 2 hours	\$100 daily maximum
<b>EXPERT SERVICES: Cumulative Maximum Cost per Appointment is \$3,000)</b>			
<b>ESS02</b> Expert Assessments (e.g., psychologists) (receipted)	Pre-approval required		
<b>ESS03</b> Expert Witness Testimony (receipted)	Pre-approval required		
<b>ADMINISTRATIVE COSTS</b>			
<b>ADM01</b> Miscellaneous – external printing/photocopy/faxes (Expenses not included in ADM02-ADM05/ receipted / copies are acceptable)	At cost		
<b>ADM02</b> Long-distance phone tolls (Lawyer must submit log)	At cost		
<b>ADM03</b> Courier (receipted / copies are acceptable)	At cost		
<b>ADM04</b> – internal Photocopying/Faxes (Lawyer must submit log)	At cost to max of \$0.10 per page		

**Appendix 1**  
Quick Reference Guide – Tariffs and Fees  
Effective July 1, 2025

All logs and receipts must be emailed to: [ocya.finance@ocya.alberta.ca](mailto:ocya.finance@ocya.alberta.ca)

Tariff or Fee	Allowable \$ per Unit	Maximum Units	Maximum Amount
<b>ADM05</b> Postage (Lawyer must submit log)	At cost		

<p><b>MEALS &amp; ACCOMMODATIONS</b> Cost per person per occurrence; excludes alcoholic beverages; includes tips up to 20% of meal cost. Meal claims exclude second parties other than the Young Person represented.</p>			
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<b>MAA01R</b> All Meals with child/youth client (receipted)	At cost		
<b>MAA01B</b> Breakfast - per diem non-receipted	Up to \$13.00		
<b>MAA01L</b> Lunch - per diem non-receipted	Up to \$18.00		
<b>MAA01D</b> Dinner - per diem non-receipted	Up to \$28.00		
<b>MAA02</b> Commercial accommodations (receipted)	At cost		
<b>MAA02P</b> Private accommodations	\$20.15 per night		

<p><b>TRAVEL – Local Travel</b> Distances less than 35 km one-way, use either Option 1 OR Option 2 for a specific day</p>			
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<b>Option 1: Per Diem</b>			
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<b>TRV50</b> Total daily vehicle/time/parking costs	\$20 per day for client visit	\$20 per day	Cannot overlap other parking, kilometre & travel related charges
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<b>Option 2: Detailed Distance Logging</b>			
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<b>TRV06</b> Vehicle Cost - kilometres to CLIENT	\$0.57 per km		
<b>TRV07</b> Parking (receipted)	At cost	Number of court days and Client-site visits	
<b>TRV08</b> Parking (non-receipted)	Up to \$12.75 per occurrence	Number of court days and Client-site visits	
<b>TRV09</b> Taxi, light rail	At cost up to \$75, pre-approval is required if the cost exceeds the amount (receipted, including up to 15% gratuity)		
<b>TRV16</b> Travel time to CLIENT	\$0.44 per km		

<p><b>TRAVEL – Extended Travel</b> Distances greater than 35 km one way</p>			
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<p><b>LAWYER'S TRAVEL DISTANCE</b> The lawyer must identify the start and destination of travel.</p>			
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<b>TRV01</b> Vehicle Cost kilometres to COURT	\$0.57 per km	Distance must be greater than 35 km one-way for	
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**Appendix 1**  
 Quick Reference Guide – Tariffs and Fees  
 Effective July 1, 2025

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		extended travel status.	
<b>TRV02</b> Vehicle Cost - kilometres to CLIENT	\$0.57 per km	Distance must be greater than 35 km one-way for extended travel status.	
<b>TRV03</b> Travel time to COURT	\$0.44 per km	Distance must be greater than 35 km one-way for extended travel status.	
<b>TRV04</b> Travel time to CLIENT	\$0.44 per km	Distance must be greater than 35 km one-way for extended travel status.	
<b>TRAVEL – OTHER</b>			
<b>TRV09</b> Taxi (receipted)	At cost (receipted, including up to 15% gratuity)		
<b>TRV10</b> airfare (receipted) for difficult-to-appoint LRCY regions for court and/or client sessions	At cost Economy fare Pre-approval is required if costs exceed vehicle costs by kilometres.		
<b>TRV11</b> Other transportation (e.g., bus, vehicle rental) (Receipted except for the use of municipal bus or train)	At cost Economy Pre-approval is required if costs exceed vehicle costs by kilometres. Pre-approval is not required for vehicle rental if the lawyer has taken a flight for a portion of the trip.		



## Appendix 2

# Legal Representation for Children and Youth Roster Application Form

### General Information for Applying to the LRCY Roster

#### Background

The Legal Representation for Children and Youth (LRCY) service is responsible for the appointment of legal representation of Alberta's Children and Youth who are receiving services under the *Child, Youth and Family Enhancement Act (Enhancement Act)* or the *Protection of Sexually Exploited Children Act (PSECA)*.

#### LRCY Roster

Any lawyer who wants to be considered for LRCY general appointments must have a signed Roster Agreement. In order to be considered for the roster, the lawyer must meet each of the following criteria:

- i. Be an active member in good standing with the Law Society of Alberta;
- ii. Be willing to provide legal representation according to the expectations and Service Standards as set out in LRCY policy;
- iii. Successfully complete a panel interview;
- iv. Provide an acceptable Criminal Record Check with Vulnerable Sector Search;
- v. Provide an acceptable Child Intervention Record Check;
- vi. Sign a Roster Agreement;
- vii. Sign an Individualized Training Plan;
- viii. Provide any additional information requested by the LRCY Manager/Deputy Advocate, Direct Advocacy.

For the lawyer to remain active on the roster, the lawyer must:

- i. attend at least eight hours in each fiscal year of training approved by LRCY;
- ii. accept at least three appointments in each fiscal year; and
- iii. maintain satisfactory reporting that indicates compliance with the Service Standards.

Approval of the LRCY Roster application is at the discretion of the Manager/Deputy Advocate. Without limiting the scope of the Manager/Deputy Advocate's discretion, if the Manager/Deputy Advocate receives information that indicates the lawyer's priority may not be to promote the interests of a Young Person, the lawyer's application may be denied.

The Manager/Deputy Advocate notifies the applicant lawyer in writing regarding the decision to approve or deny the application.



The roster is an administrative structure that stores information about participating lawyers. The information contained in the roster is protected in accordance with the *Access to Information Act* and the *Protection of Privacy Act*.

### The Appointment Process

Legal Representation for Children and Youth (LRCY) undertakes to exercise independence in the selection of legal counsel by appointing a lawyer from the roster or by appointing a lawyer that is specified by a Young Person aged 12 and over. LRCY does not accept recommendations from third parties for a specific lawyer to be appointed for a Young Person.

LRCY undertakes the selection of legal representation for Young People according to the nature of the referral, including but not limited to:

- A request for a specific lawyer;
- A request for a male or female lawyer;
- A request for a lawyer who speaks a given language;
- The target community of the case; and
- The lawyer's specified location of practice.

### Rules, Fees and Tariffs of Legal Representation for Children and Youth

As per LRCY policy, a Roster Lawyer receives appropriate remuneration for legal representation services and disbursements.

**LRCY is responsible for establishing the rules and procedures governing the appointment and removal of Roster Lawyers from the roster. LRCY may, at its own discretion, refuse to approve a lawyer for the roster who otherwise meets the eligibility criteria.**

### The Application Form

If there are areas in the application where you would like to provide LRCY with more information, please attach as a separate document.

#### **IN ORDER TO BE CONSIDERED FOR THE ROSTER YOU MUST:**

- Complete and sign the attached application form.
- Attach a letter of interest, resume and a minimum of two references.
- Forward the completed application and attachments to:

<p><b>Legal Representation for Children and Youth</b> <b>Office of the Child and Youth Advocate</b> Suite 600, 9925 – 109 Street NW Edmonton, Alberta, T5K 2J8 Attn: LRCY Manager</p>
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**Please note that the Legal Representation for Children and Youth service has the right to verify any information contained in this application and attachments.**



## Application for the LRCY Roster

Part One: Background Information			
Surname	Given Name	Middle Initial	Application Date
			I identify my gender as:
Firm Name			
Street #	Street Name		Office/Suite #
Email	City/Town	Province	Postal Code
Phone (    )			
Fax (    )			
Cell (    )			
Contacting a Lawyer About a Referral			
In addition to direct communication with yourself, who else is allowed to accept referrals from LRCY on your behalf?			
Surname	First	Position	Phone Number
Part Two: Legal Practice Background			
Are you a member of the Alberta Bar?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Roll Number _____	Year Admitted _____
Are you a member of any Other Bar?	Location _____	Roll Number _____	Year Admitted _____
Other:			
Language 1:	Language 2:	Language 3:	
Do you have an expertise in immigration law?			
Are you an Indigenous individual and want to be considered for appointments when a Young Person aged 12 and over requests an Indigenous lawyer? <input type="checkbox"/> Yes <input type="checkbox"/> No			



**Location of Practice: Check general region(s) or specific areas in as many locations as you are prepared to practice.**

**Edmonton & Area**

(your base of operation must be within this area for you to select one or more of these locations)

- Athabasca
- Barrhead
- Boyle
- Edmonton
- Edson
- Evansburg
- Fort Saskatchewan
- Fox Creek
- Glenevis (Alexis)
- Grand Cache
- Hinton
- Jasper
- Mayerthorpe
- Morinville
- Sherwood Park
- St. Albert
- Stony Plain
- Vegreville
- Westlock
- Whitecourt

**St. Paul & Area**

- Bonnyville
- Cold Lake
- Lac La Biche
- Lloydminster
- St. Paul
- Vermillion
- Wainwright

**Calgary & Area**

(your base of operation must be within this area for you to select one or more of these locations)

- Airdrie
- Banff
- Calgary
- Canmore
- Cochrane
- Didsbury
- Okotoks
- Siksika Nation
- Strathmore
- Tsuu T'ina Nation

**Drumheller & Area**

- Drumheller
- Hanna

**Medicine Hat & Area**

- Brooks
- Medicine Hat

**Lethbridge & Area**

(your base of operation must be within this area for you to select one or more of these locations)

- Cardston
- Fort Macleod
- Lethbridge
- Pincher Creek
- Taber

**Fort McMurray & Area**

- Fort Chipewyan
- Fort McMurray

**Red Deer & Area**

(your base of operation must be within this area for you to select one or more of these locations)

- Coronation
- Red Deer
- Rocky Mountain House
- Stettler

**Peace River & Area**

- Chateh (Assumption)
- Fairview
- Falher
- Faust
- Fort Vermilion
- High Level
- High Prairie
- Peace River
- Red Earth Creek
- Slave Lake
- Wabasca-Desmarais

**Wetaskiwin & Area**

- Breton
- Camrose
- Drayton Valley
- Killam
- Leduc
- Ponoka
- Rimbey
- Wetaskiwin

**Grande Prairie & Area**

- Grande Prairie
- Valleyview

**Referrals Outside the Lawyer's Specified Location of Practice**

**Will you consider appointments from areas outside of your identified locations of service? Checking this box will put you on the LRCY extended list and you may be called for offers anywhere in the province.**  Yes  No



## AGREEMENT

I agree to:

- accept referrals according to the expectations, fees, and tariffs set out in the policy of the Legal Representation for Children and Youth;
- act to ensure the rights, interests, and viewpoints of Young People are heard and represented in a manner that is consistent with the OCYA's position on the voice of the Young Person;
- meet and uphold the LRCY's Policies, Standards, and Guidelines on the Role of Counsel, and to ensure that I am well informed about changes to the same;
- notify the Manager/Deputy Advocate, in the event of a conflict of interest, or other reason which would prevent me from providing legal representation and request that another lawyer be assigned to the case;
- notify the Manager/Deputy Advocate should I become ineligible or unable to accept referrals;
- notify the Manager/Deputy Advocate of any change of address, choice of preferred location of practice or other information contained in this application;
- notify the Manager/Deputy Advocate when there is a complaint about legal services provided by me that results in a Law Society of Alberta hearing;
- submit invoices as required in the policy;
- make every reasonable effort to ensure that the protection of personal information relating to the Client is maintained; and
- sharing information contained in this application form may be posted on the LRCY website, with the exception of the name of the designate that I've identified to accept referrals on my behalf.

I certify that all information provided in this application form is complete and correct.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

## Appendix 4

### LEGAL REPRESENTATION FOR CHILDREN AND YOUTH

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#### MENTOR PROGRAM

I, \_\_\_\_\_ (printed name of requesting Roster Lawyer), a Roster Lawyer, acknowledge and represent, with respect to any use that I make of the services of the Mentor Program, as follows:

1. Legal Representation for Children and Youth, and the participating Mentors, assume no liability arising from any assistance offered to me.
2. The Mentor Program is not a substitute for my own research and analysis or my own professional judgment.
3. I am obliged to independently verify statements of law, practice, procedure, or facts made to me by a Mentor.
4. I assume all responsibility for any loss which I, or any person claiming through me, may sustain by reason of assistance offered to me by a Mentor.
5. I shall disclose only as much of my Client's confidential information as is necessary to obtain assistance, and I understand that a Mentor shall also respect such confidentiality.

Dated at \_\_\_\_\_, Alberta, this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

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Signature of Requesting Roster Lawyer

## LRCY Guidelines on the Role of Counsel

May 2024

### 1. BACKGROUND

It is well established that a lawyer may maintain a normal lawyer-client relationship with a child or youth. The Law Society of Alberta *Code of Conduct* states at rule 3.2-15 that **When a client’s ability to make decisions is impaired because of minority or mental disability, or for some other reason, the lawyer must, as far as reasonably possible, maintain a normal lawyer and client relationship.**

A lawyer-client relationship is instructional by its nature. The Commentary for this rule provides that a lawyer and client relationship “presupposes that the client has the requisite mental ability to make decisions about his or her legal affairs and to give the lawyer instructions.” It goes on to say that “when a client is, or comes to be, under a disability that impairs his or her ability to make decisions, the lawyer will have to assess whether the impairment is minor or whether it prevents the client from giving instructions [...].”

Thus, the starting point in any lawyer-client relationship is the presumption that the client is able to make decisions. When the client’s ability to make decisions is impaired because the client is a minor, the lawyer must assess whether the impairment prevents the client from giving instructions.

For the purpose of these Guidelines, it is important to clarify that counsel is not assessing capacity. The question to be addressed is whether the child or youth is *able* to instruct. This is consistent with the *Code of Conduct* Commentary for rule 3.2-15:

A client’s ability to make decisions depends on such factors as age, intelligence, experience and mental and physical health and on the advice, guidance and support of others. [...] The key is whether the client has the ability to understand the information relative to the decision that has to be made and is able to appreciate the reasonably foreseeable consequences of the decision or lack of decision.

Throughout these Guidelines, whenever the word child/children is used, it includes youth.

### 2. GUIDELINES

#### 2.1 Lawyers appointed by LRCY are advocates.

There are two roles an LRCY appointed lawyer can take:

- a) Instructional Advocate
- b) Non-Instructional Advocate – Interests and Entitlements Role

#### *Commentary*

Lawyers who represent children and youth in child protection matters may take one of two roles: Instructional Advocate or Non-instructional Advocate – Interests and Entitlements Role. When a child or youth has the ability to instruct, an Instructional Advocacy role is presumed. When a child or youth is

unable or unwilling to instruct counsel, counsel will assume an Interests and Entitlements role in accordance with the statutory mandate of the Office of the Child and Youth Advocate.

A Best Interests role and an *Amicus Curiae* role, which were previously acceptable roles for LRCY-appointed counsel, have no place in the Legal Representation for Children and Youth program.

There are several fundamental challenges with the Best Interests role. First of all, this role requires lawyers to instruct themselves on the child's best interests. A lawyer is not entitled to express their personal opinion on any issue, including the child's best interests. Second, a lawyer cannot become a witness and advise the court what the child's preferences are. A lawyer must advance preferences through the appropriate evidentiary means. Third, lawyers do not necessarily have the training to advance a position of what is in the best interests of the child. And finally, the best interests of the child are determined by the court. While the best interests role has heretofore been considered a valid alternative when a child or youth is unable/unwilling to instruct counsel, this role is no longer permissible for an LRCY-appointed lawyer.

The *Amicus Curiae* role has favour with the courts due to the fact that counsel is a neutral party and is there to ensure that all relevant evidence is before the courts, including retaining experts if needed. In this role, counsel assists the court in determining what is in the best interests of the child, but they do not make submissions about what outcome would be in the best interests of the child (i.e. they do not advance a position on behalf of the child). Given that LRCY appointed lawyers are appointed as advocates, it is not appropriate for a lawyer to assume this role. If the court is seeking to have a lawyer appointed as an *Amicus Curiae*, the lawyer must withdraw as counsel for LRCY before taking the appointment.

## **2.2 Instructional Advocate**

Instructional advocacy is where a child's counsel honours the child's instructions, or lack thereof if the child chooses not to advance a position. This role requires counsel first to assess that the child is able to instruct counsel (see Guideline 2.3).

As an Instructional Advocate, counsel will:

- a) Meet with a child so counsel can provide information to the child and ensure their child client understands their situation.
- b) Assist the child in formulating a position or viewpoint and, as appropriate, a choice about the outcome. Counsel must take care not to impose their own values and perceptions on their child client.
- c) Ask for the child's consent to advocate their viewpoint and, if applicable, their choice about the outcome on their behalf.
- d) Ensure the parties and court are aware of the child's views and preferences (provided the child consents to information being shared).
- e) Present evidence consistent with the child's position and desired outcome, if applicable.
- f) Make clear to the parties and court that an instructional advocacy approach is being adopted.

### *Commentary*

Where a child or youth is silent on a particular issue, or is unwilling to provide instructions on the desired outcome, an Instructional Advocate will be satisfied that all significant evidence that is relevant to the child's interests will be before the court and parents, subject to concerns about child confidentiality.

### **2.3 Assessing a Child's Ability to Instruct Counsel**

Counsel must assess, in every instance, whether a child has the ability to instruct counsel. A child has the ability to instruct when:

- a) The child can express (verbally or non-verbally) their wish, preference or viewpoint clearly and consistently;
- b) The child can comprehend the nature of the legal question, context, and factors relevant to the decision; and
- c) The child appreciates the foreseeable consequences of their wish, preference or viewpoint.

Where a child has the ability to instruct counsel, an instructional advocacy role is presumed.

### *Commentary*

Children have the ability to instruct counsel when they have a basic understanding of the main issues involved, and they are able to express a clear and consistent preference about the desired outcome (whether or not they instruct the lawyer to advance that outcome or simply express their viewpoint).

For a child to be able to express a clear and consistent preference about the desired outcome they must be able to do so without the influence or coaching by a parent, foster parent, CFS worker, or kinship caregiver. What it means for a child to have a basic understanding of the main issues involved is that the child understands, for instance, that there is a question about where they will live, who will take care of them, how long they will live there for, or whether they are safe in their home. The child needs only to have a realistic appreciation of the foreseeable consequences of their expressed preference. That is, their expressed preference must be realistic/possible (i.e. if the preference is to live with their mother, the mother must be alive and able to be located), not necessarily reasonable (i.e. the mother is an unfit caregiver). Counsel's assessment of whether the position or viewpoint appears unreasonable to counsel or others should not be confused with a realistic preference.

An age-based assessment is not endorsed, but most children in the range of 8-10 years are likely able to instruct counsel.

When a child has the ability to instruct counsel, an instructional advocacy role is presumed, not required. If the child is able to instruct counsel, but unavailable (for instance due to being AWOL) or unwilling to do so (for example due to fear or alienating a parent) then counsel may depart from the presumed role and take an Interests and Entitlements role.

This Guideline aligns with Article 12 of the UN Convention on the Rights of the Child which provides that a child who is capable of forming their own views shall be assured the right to express those views freely

in all matters affecting the child. Article 12 also provides that the child's views shall be given due weight in accordance with the age and maturity of the child. Assessing the child's ability to instruct counsel does not silence the child's voice. The assessment simply pertains to the child/youth's ability to instruct, which is determinative of which role counsel takes. Where a child does not have the ability to instruct counsel but is nonetheless capable of forming and expressing their views, that child still has the right to express their views and have them heard through a lawyer who takes an Interests and Entitlements Role (see Guideline 2.4)

## **2.4 Non-Instructional Advocate – Interests and Entitlements Role**

Interests and entitlements advocacy (non-instructional advocacy) is the role taken when a child lacks the ability to instruct counsel or is unwilling to instruct counsel. In this role, the lawyer takes a position based on an objective assessment of what is important in the child's life. The position being advocated must be consistent with the child's expressed views and preferences. In other words, counsel must not take a position that contradicts the child's expressed views and preferences.

The role of counsel is to objectively explore all the interests and entitlements of the child, including but not limited to:

- a) physical security and safety
- b) emotional well-being
- c) education
- d) health
- e) religion/spirituality
- f) family/community connections
- g) social involvement

A lawyer who is advocating for the child's rights and entitlements should not disclose confidential information received from a child.

### *Commentary*

A child rights-centered approach is in keeping with international best practices for the representation of children. With this approach, children's rights are not compromised in any way on account of their age or ability. A lawyer assumes an Interest and Entitlements role in accordance with the statutory mandate of the Office of the Child and Youth Advocate. In other words, the training, policies, rules and guidelines provided as part of the lawyer's retainer with LRCY provide sufficient oversight such that in cases where the child lacks the ability to instruct counsel or is unwilling to instruct counsel, the lawyer is directed to review and analyse the interests and entitlements of the child and act accordingly.

Each entitlement can include an analysis of the evidence and presentation of evidence in a manner that best supports the position to be advocated.

## **2.5 Representing Indigenous Children and Youth**

While not decision-makers, lawyers representing Indigenous children and youth (whether in an instructional or non-instructional role) must be guided by and advocate for the unique rights and entitlements of Indigenous children and youth as established in *An Act Respecting First Nations, Inuit and Métis Children, Youth and Families (The Federal Act)*.

a) Instructional Advocate:

When acting as instructional advocates, lawyers must inform their clients of their unique entitlement to substantive equality and cultural continuity, and in particular the super-weight of an Indigenous child/youth's need for ongoing family relationships and cultural connectedness.

b) Non-Instructional Advocate – Interests and Entitlements Role

When taking an Interests and Entitlements Role, a lawyer must advocate for the child/youth's interests and entitlements in accordance with these guiding principles in *The Federal Act*:

1. best interests of the child (s. 9(1));
2. cultural continuity (s. 9(2));
3. substantive equality (s. 9(3)); and
4. Best interests of Indigenous Child (ss. 10 (1)-(3).

In particular, the lawyer must advocate in accordance with the primary consideration outlined in section 10(2) of *The Federal Act*:

Primary consideration

10(2) When the factors referred to in subsection (3) are being considered, primary consideration must be given to the child's physical, emotional and psychological safety, security and well-being, as well as to the importance, for that child, of having an ongoing relationship with his or her family and with the Indigenous group, community or people to which he or she belongs and of preserving the child's connections to his or her culture.

### 3. KEY PRINCIPLES INFORMING LRCY APPOINTED LAWYERS

The LRCY program is informed by the following key principles:

- a) A lawyer has a duty of loyalty to their client, and they must remain faithful to their client at all times.
- b) Lawyers must follow their ethical duties and must not breach the standards of care expected of them.
- c) Lawyers will honour the Truth and Reconciliation Calls to Action.

#### *Commentary*

Counsel to a child has a duty of loyalty to their client, and they must remain faithful to their client at all times. At the core of this duty is solicitor-client privilege. A lawyer must not breach solicitor-client privilege by disclosing privileged information about the client, including concerns about the client's development or mental disabilities. A lawyer must not disclose confidential information about their client without consent, provide evidence to the court that is not authorized, or submit an opinion about what is in the child's best interests. Failure to follow ethical duties by ensuring a child-rights approach puts a lawyer at risk of breaching the standard of care of a lawyer. Any practice that could leave a lawyer open to discipline or liability is expressly discouraged. If a lawyer is ever required to step out of an

advocacy role, it must only be done in exceptional circumstances after the lawyer is relieved of their duty to the child client.

Regardless of whether a lawyer assumes an instructional or non-instructional role, LRCY Roster Lawyers honour the Truth and Reconciliation Calls for Action and *An Act Respecting First Nations, Inuit, and Metis Children, Youth and Families* by supporting young people in staying connected to their family, community, culture, and language, which are essential for their well-being and identity. Lawyers are committed to listening, learning, and walking respectfully alongside Indigenous peoples on this journey.

## LRCY Complaint Form

If you believe a child is at risk, call the Child Intervention provincial intake line,  
24 hours a day: 1-800-638-0715.

If you are a young person, and this is about your LRCY lawyer, please call OCYA at  
1-800-661-3446 and ask to speak to an Intake Worker instead.

### 1. Person filing the complaint

I acknowledge that I am giving consent to the Office of the Child and Youth Advocate to follow up on my complaint, including gathering all the information necessary to address my concerns and disclosing some or all of the information to the lawyer involved.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Phone Number (daytime): \_\_\_\_\_

Email: \_\_\_\_\_

If you want to communicate by mail, please provide your mailing address.

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_, Alberta Postal Code: \_\_\_\_\_

Do you also have a lawyer for this case?  Yes /  No

### 2. Information about the young person

Provide each young person's name and age here:

What is your relationship with the young person(s) this lawyer is representing?

- |  |  |
|--|--|
| <input type="checkbox"/> Parent or Legal Guardian      | <input type="checkbox"/> Caregiver (Foster care or Kinship care) |
| <input type="checkbox"/> Caseworker                    | <input type="checkbox"/> Other Party                             |
| <input type="checkbox"/> Relative (please specify)     | <input type="checkbox"/> Opposing Lawyer                         |
| <input type="checkbox"/> Other (please specify): _____ |  |

Is this case ongoing in the Courts?  Yes /  No

- If so, when is the next Court date? \_\_\_\_\_

**3. Complaint**

3a) Lawyer Name that you are complaining about: \_\_\_\_\_

3b) Have you already spoken to someone in our office about the complaint? Or have you already submitted a complaint form regarding this lawyer?

Yes /  No. If yes, what happened as a result?

What does your complaint primarily concern?

- |   |  |
|---|--|
| <input type="checkbox"/> Failure to follow the young person's instruction | <input type="checkbox"/> Conflict of Interest    |
| <input type="checkbox"/> Failure to meet with the young person            | <input type="checkbox"/> Delays or inactivity    |
| <input type="checkbox"/> Failure to communicate with the young person     | <input type="checkbox"/> Non-attendance at court |
| <input type="checkbox"/> Rudeness/unprofessional behaviour towards you    | <input type="checkbox"/> Other                   |

3c) Please describe the situation below.

4. Resolution

4a) What steps have you taken to resolve this so far?

4b) Please identify what you would like to see happen as a result of this complaint