

Legal Representation of Children in Custody

SUMMIT COUNTY CHILDREN SERVICES

ORC: 5153.16, 305.14, 120.26, 2151 OAC: 5101:2, 120-1-10 USC: NA CFR: NA	ORIGINAL: 7/1/2000 REVISIONS: 9/15/2005; 11/27/2017 RELATED FORM(S): NA RELATED PROCEDURE/POLICY(IES): NA
---	--

- | | |
|---|---|
| <input type="checkbox"/> Administrative
<input type="checkbox"/> Fiscal
<input type="checkbox"/> Human Resources
<input type="checkbox"/> Information Technology | <input checked="" type="checkbox"/> Legal
<input type="checkbox"/> Safety & Security
<input type="checkbox"/> Social Services - All Departments
<input type="checkbox"/> Social Services - Foster & Adoption |
|---|---|

All Staff
 Bargaining Unit
 Non-Bargaining
 Management

POLICY:

Summit County Children Services (SCCS) will ensure children in the custody of SCCS, who are in need of legal counsel, are represented by qualified, competent attorneys as necessary to act in the child's best interest. Further, no child in the custody of SCCS that is the suspect in a criminal investigation will be permitted to speak with law enforcement officials in regard to such investigation without legal counsel present.

PROCEDURE:

Pursuant to Ohio Revised Code Chapters 5153 and 2151, SCCS, through its Executive Director, acts as legal guardian for children placed in its custody. At times, children in SCCS custody are in need of legal representation regarding civil and/or criminal actions. The Summit County Prosecutor, in Opinion Number 00-024, stated "the Office of the Prosecutor is not authorized to extend representation to children in agency custody regarding accidental injuries and other civil or criminal actions." Therefore, legal counsel for such children will be retained in accordance with the associated procedure.

SCCS will inform all caregivers of children in the custody of SCCS of this policy. If a Case Worker is aware that a child in the custody of SCCS is the suspect in an investigation, the Case Worker will reiterate to the child's caregiver that the child is not to be interviewed by police without legal counsel present and the child is not to be allowed to voluntarily accompany law enforcement. However, if a child is under arrest, the caregiver is not to interfere with regard to such arrest. The Case Worker will inform the child of his/her right to remain silent and ask for legal counsel to be present when being questioned by law enforcement.

SCCS will retain qualified outside counsel to represent children in agency custody, regarding personal injury claims and other civil or delinquency actions, who are in good standing with the Ohio Supreme Court, and who express a desire and willingness to undertake such representation. In accordance with SCCS's mandate to protect the abused, neglected and dependent children of Summit County and to insure that the best interest of the children is served, SCCS will abide by the Legal Representation of Children in Custody policy and procedure when retaining outside legal counsel for children in Agency custody.

The Administrative and Legal Services Division will contact a qualified attorney, present the legal issue for which the child requires representation, and verify the attorney's interest in accepting the representation and their willingness to accept defense fees commensurate with Summit County approved fee schedules for the representation of indigent persons. If funds are held in a trust for the child, the Probate Court may approve that fees resulting from the criminal defense of the child be paid from the trust on an itemized time and hourly rate basis. In a civil case, the attorney fees will equal one third of net recovery (one third of remaining amount after expenses are deducted), or as approved by the Probate Court, up to a maximum of forty percent for extremely complex, lengthy trials.

Any fee disputes shall be submitted to mandatory fee arbitration or mediation as provided by the Ohio Bar Association, unless the parties consent to determination of the dispute by another mandatory fee arbitration tribunal or other resolution.