

27 NCAC 01D .3405 STANDARDS FOR CERTIFICATION AS A SPECIALIST IN CHILD WELFARE LAW

Each applicant for certification as a specialist in child welfare law shall meet the minimum standards set forth in Rule .1720 of this subchapter. In addition, each applicant shall meet following standards for certification in child welfare law:

(a) Licensure and Practice - An applicant shall be licensed and in good standing to practice law in North Carolina as of the date of application. An applicant shall continue to be licensed and in good standing to practice law in North Carolina during the period of certification.

(b) Substantial Involvement - An applicant shall affirm to the board that the applicant has experience through substantial involvement in child welfare law.

(1) Substantial involvement shall mean that during the five years immediately preceding the application, the applicant devoted an average of at least 500 hours a year to the practice of child welfare law but not less than 350 hours in any one year.

(2) Practice shall mean substantive legal work in child welfare law done primarily for the purpose of providing legal advice or representation, including the activities described in paragraph (3), or a practice equivalent as described in paragraph (4).

(3) Substantive legal work in child welfare law focuses on a combination of abuse, neglect, dependency, and termination of parental rights proceedings as governed by N.C.G.S. Chapter 7B ("the Juvenile Code"). Types of work involve staffing cases; advising clients; participating in department of social services' team meeting involving the juvenile and family; preparing for trial; researching, drafting, or editing written pleadings (petitions, motions, responses to motions, written argument to the district court, appellate briefs); representing clients in district court juvenile proceedings, and family law court proceedings with substantial child protective services involvement; participating in oral arguments before the North Carolina appellate courts; consultation on child welfare issues with other counsel and child welfare professionals; authoring scholarly work related to child welfare; and teaching child welfare i) at an ABA accredited North Carolina law school, ii) for approved CLE credit at both a North Carolina or national program, iii) for North Carolina professional continuing education requirements, and iv) for prospective and current Guardian ad Litem staff and volunteers.

(4) "Practice equivalent" shall mean:

(A) Service as a law professor concentrating in the teaching of child welfare law for up to two years during the five years prior to application may be substituted for an equivalent number of years of experience necessary to meet the five-year requirement set forth in Rule .3405(b)(1);

(B) Service as a district court judge who has attained juvenile court certification through the AOC in North Carolina. Such certification may count for one year of experience in meeting the five-year requirement.

(c) Continuing Legal Education - To be certified as a specialist in child welfare law, an applicant must have earned no less than 36 hours of accredited continuing legal education credits in child welfare law/juvenile law and related fields during the three years preceding application. The 36 hours must include at least 27 hours in child welfare/juvenile law; the remaining 9 hours may be in related-field CLE. Related fields include family law, adoption law, juvenile delinquency law, immigration law, public benefits law, ethics, education law, trial advocacy, evidence, appellate practice, and trainings on topics including implicit bias, cultural humility, disproportionality, and substance use and mental health disorders. The applicant may request recognition of an additional field as related to child welfare practice for the purpose of meeting the CLE standard.

(d) Peer Review - An applicant must make a satisfactory showing of qualification through peer review. An applicant must provide the names of ten lawyers or judges who are familiar with the competence and qualification of the applicant in the specialty field. Written peer reference forms will be sent by the board or the specialty committee to each of the references. Completed peer reference forms must be received from at least five of the references. All references must be licensed and in good standing to practice in North Carolina. An applicant consents to the confidential inquiry by the board or the specialty committee of the submitted references and other persons concerning the applicant's competence and qualification.

(1) A reference may not be related by blood or marriage to the applicant nor may the reference be a partner or associate of the applicant at the time of the application.

- (2) The references shall be given on standardized forms provided by the board with the application for certification in the specialty field. These forms shall be returned directly to the specialty committee.
- (e) Examination - The applicant must pass a written examination designed to test the applicant's knowledge and ability in child welfare law.
 - (1) Terms - The examination shall be in written form and shall be given annually. The examination shall be administered and graded uniformly by the specialty committee.
 - (2) Subject Matter - The examination shall cover the applicant's knowledge and application of the law relating to abuse, neglect, dependency, and termination of parental rights, child custody, adoptions, and education law including, but not limited to, the following:
 - (A) State and Federal Sources of Authority: Laws, Rules, and Policy
 - (B) The Constitutional Rights of Parents and Children and Requirements of State Intervention
 - (C) Jurisdiction, Venue, Overlapping Proceedings
 - (D) Procedures Regarding the Petition, Summons and Service
 - (E) How a Case Enters the Court System
 - (F) Central Registry and Responsible Individuals List
 - (G) Parties, Appointment of Counsel, and Guardians ad Litem
 - (H) Purpose and Requirements of Temporary and Nonsecure Custody
 - (I) Aspects of Adjudication and Its Consequences
 - (J) Dispositional Hearings and Alternatives
 - (K) Visitation
 - (L) Permanency Outcomes
 - (M) Voluntary Placements of Juveniles and Foster Care (ages 18-21)
 - (N) Termination of Parental Rights (TPR) Procedure, Grounds Phase, Best Interests Phase and Legal Consequences
 - (O) Post TPR/Relinquishment, Adoption, Reinstatement of Parental Rights
 - (P) Applicability of Rules of Evidence and Evidentiary Standards
 - (Q) Appealable Orders, Notices of Appeal and Expedited Appeals
 - (R) Relevant Federal Laws Including, but not limited to, the Uniform Child Custody Jurisdiction Enforcement Act, the Interstate Compact on the Placement of Children and the Indian Child Welfare Act
 - (S) Confidentiality and Information Sharing

*History Note: Authority G.S. 84-23;
Approved by the Supreme Court December 14, 2021.*