

# NOTICE OF PUBLIC HEARING

## NEW YORK STATE UNIFIED COURT SYSTEM

# COMMISSION ON PARENTAL LEGAL REPRESENTATION

The New York State Commission on Parental Legal Representation, established by Chief Judge Janet DiFiore, seeks to gather information on existing services and suggestions for reforms needed to ensure quality representation for persons eligible for assigned counsel in family law matters. The commission will conduct four (4) Public Hearings to solicit the views of county government officials, institutional providers, assigned counsel programs and attorneys, clients, and other stakeholders. The information and ideas elicited will inform the Commission's report and the resulting systemic improvements. Interested participants are requested to provide written testimony relating to the topics below, as more fully described on the following page:

- Funding and Caseloads
- Timely Access to Counsel
- Structural Issues
- Model and Scope of Representation
- Financial Eligibility Criteria and Procedures
- Statewide Oversight Role
- Global Issues

### Public Hearings: Dates and Locations:

- SEPT. 13, 2018 • 1:00 PM – 4:00 PM  
App. Div., 4th Dept., Rochester
- SEPT. 27, 2018 • 10:00 AM – 1:00 PM  
App. Div., 1st Dept., New York City
- OCT. 10, 2018 • 9:30 AM – 12:30 PM  
App. Div., 3rd Dept., Albany
- OCT. 23, 2018 • 10:00 AM – 1:00 PM  
Supreme Court, Nassau Co., Mineola

### Submissions and Testimony

The Commission will consider both oral testimony and written submissions. Alternatively, or additionally, individuals may complete a survey targeting these relevant Issues, which will be posted at [www.nycourts.gov](http://www.nycourts.gov). Persons interested in presenting oral testimony, making a written submission, and/or completing the Commission survey, are asked to follow the procedures and deadlines described below. Please be aware that individuals are not required to present testimony regarding every question – only answer questions that are relevant to your organization or practice. **Any person wishing to testify orally or in writing must submit written testimony (or a prepared written statement in anticipation of oral testimony) to the Commission on or before August 16, 2018. Any person wishing to complete the Commission survey, which will be posted at [www.nycourts.gov](http://www.nycourts.gov), must do so on or before October 1, 2018.**

### Submission of Written Testimony

Written testimony should be submitted at the contact information below.

### Requests to Provide Oral Testimony

Because of the limited number of hearings scheduled, the Panel will accept requests to present oral testimony in advance, and will then notify individuals of the proposed date, time and duration scheduled for their testimony. If you are interested in testifying at a hearing, please forward your request **along with your written testimony by August 16, 2018**, or via email to [parentrepresent@nycourts.gov](mailto:parentrepresent@nycourts.gov) no later than 20 days in advance of the hearing at which you propose to testify **with the subject line ORAL TESTIMONY REQUEST**. Please be aware that individuals are not required to present testimony regarding every question -- only answer questions that are relevant to your organization or practice.

If requesting an invitation to provide oral testimony, please provide the following information:

1. Identify yourself and your affiliation if applicable (and if you are requesting an invitation for someone else to testify, that individual's name and affiliation);
2. Attach either a prepared written statement or a brief description of the topics you wish to address at the hearing; and
3. Indicate at which of the hearing(s) the testimony is proposed to be given.

If requesting to give oral testimony, please indicate if you will need special accommodations (e.g. Americans with Disabilities Act or language access assistance) in order to testify.

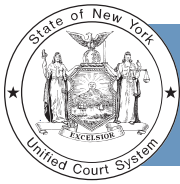
### Completion of Commission Survey

The Commission survey, which will be available at [www.nycourts.gov](http://www.nycourts.gov), must be completed on or before October 1, 2018. The survey can be completed on its own, or as a complement to oral/written testimony.

### Name, Address and Agency Contact:

All written submissions and requests to testify should be forwarded to the New York State Unified Court System Commission on Parental Legal Representation at the following email address: [parentrepresent@nycourts.gov](mailto:parentrepresent@nycourts.gov).

The Notice of Public Hearings for the Commission is available at [nycourts.gov](http://nycourts.gov).



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### Funding and Caseloads

- The impact of the current funding system on the ability of institutional offices and assigned counsel programs to provide high quality parental legal representation, including the ability to recruit and retain, train and supervise, and adequately compensate assigned counsel.
- The impact of such funding on caseloads/workloads of attorneys, and the need to develop appropriate caseload standards for various types of family law cases, including appeals.
- The adequacy of the current rates for 18-B assigned counsel services and ancillary non-attorney professional services (e.g., social workers, medical and psychological experts, translators, etc.)
- The responsibility of the State vs. the counties for funding mandated parental representation.

### Timely Access to Counsel

- Pre-petition access and procedures for access to counsel in advance of a first court appearance in child protective (CPS) cases to facilitate effective representation.
- Access to counsel for individuals in privately initiated cases prior or in response to the initiation of litigation.
- The potential social and economic benefits to the early entry of counsel.

### Structural Issues

The advantages and disadvantages of institutional offices (Public Defenders, Conflict Defenders, and Legal Aid Societies) and assigned counsel panel programs in providing the essential elements of quality representation, including:

- Independence as to funding, eligibility determinations, assignment and compensation of attorneys, and other matters.
- Independence of individual attorneys to act as zealous advocates and make independent decisions to further the stated interests of clients.

- Sufficient office facilities, technology, legal research, and administrative resources.
- Access to, training regarding, and appropriate use of social workers, parent advocates, experts, investigators, mental health professionals, interpreters, and other non-attorney professional services.
- Training, supervision, and mentoring of attorneys providing representation in the trial court and in the appellate court.
- Procedures and practices to ensure client rights are protected from the time of the issuance of an appealable order to the assignment of appellate counsel.

### Model and Scope of Representation

- Multidisciplinary or interdisciplinary team approach in various Family Court proceedings.
- Representation in related legal and administrative proceedings.
- Special litigation to vindicate clients' legal rights and challenge systemic flaws.
- Alternative Dispute Resolution.
- The advantages and disadvantages of specialized panels for specific types of cases, such as abuse/neglect or family offense.

### Financial Eligibility Criteria and Procedures

- Criteria for determining eligibility for assigned counsel, including but not limited to establishing presumptive financial eligibility guidelines, and what resources may be considered, and the process for disseminating information regarding such criteria.
- The process of reconsideration upon a determination of ineligibility.
- The advantages and disadvantages of uniform eligibility standards, including any potential social and economic benefits.
- Procedures to ensure confidentiality of information submitted by individuals.
- Use of online portals and other technology in processing applications.

### Statewide Oversight Role

- Promulgation and implementation of Statewide standards governing parental legal representation.
- Monitoring and oversight of parental legal representation at both institutional offices and assigned counsel programs, including the essential quality components listed above under "Structural Issues."
- Coordinating resources for attorneys, including training, supervision, mentoring, and access to non-attorney professional services, research assistance, and sample filings and other legal materials.
- Managing relationships among institutional and governmental entities regarding funding, legislative, policy, and practice reform.
- Receiving and processing feedback from current or former clients of assigned counsel and other affected individuals to help monitor the system of parental legal representation.

### Global Issues

- Impact of parental legal representation on the functioning of other systems that affect children and families and on the effective resolution of cases.
- Legislative changes needed to ensure quality parental legal representation.
- Challenges in rural counties, including non-legal services, geography and lack of public transportation, and possible solutions, including creative use of technology.
- Special issues related to representation of assigned counsel eligible parents and caregivers in cases involving Native American families, Tribal Courts, and the Indian Child Welfare Act.
- Special issues related to representation of assigned counsel eligible parents and caregivers in cases involving immigrant families, and the intersection of Federal and state law