



National Association of Counsel for Children

NACC Standards for Child Welfare Law Attorney Specialty Certification – South Carolina

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Section 1* *General Principles

- 1.1 Certification is individual, voluntary, and open to all who qualify.
- 1.2 These standards shall not in any way limit the right of the certified child welfare law attorney to practice law in all fields.
- 1.3 These standards shall not be interpreted to require a lawyer to obtain a certificate in child welfare law before he or she can practice in the field.
- 1.4 Certification shall be for five years, after which time the certificate cannot be used unless the lawyer is recertified. Certification may be revoked at any time for violations of these Standards.
- 1.5 Application for certification will be made to the National Association of Counsel for Children (NACC), on the forms supplied, and accompanied by the appropriate fee.

- 1.6 Applicant must complete all requirements, including the examination, within two years of application. If the certification process is not satisfactorily completed within the two-year period, the applicant must reapply and re-submit all required fees. An application can be denied at any time within the two year application period for failure to successfully meet the requirements for certification.
- 1.7 A certificate will be issued upon a showing by the applicant, and by the NACC Certification Committee's own investigation, that the applicant complies with the Certification Standards.
- 1.8 All applications and other information submitted to the NACC shall be privileged and confidential, except as compelled by law and, except that the NACC Certification Committee may reveal the fact of an application for the purpose of verifying information submitted by the applicant, and for the purpose of making such inquiries with respect to the character and professional reputation of the applicant as may be authorized by the Standards.
- 1.9 The NACC does not discriminate against any lawyer seeking certification on the basis of race, nationality, religion, gender, sexual orientation, disability, or age.
- 1.10 The NACC is dedicated to the identification of lawyers who possess an enhanced level of skill and expertise in child welfare law, and have demonstrated integrity and dedication to the interests of their clients.
- 1.11 Membership in the NACC is not a requirement for certification.

Section 2 Standards for Certification

Part 1 Good Standing and Period of Practice

- 2.1 **Good Standing.** The applicant shall furnish evidence of his or her good standing in the state of his or her admission, or if admitted in more than one state, in the state of his or her principal practice.
 - 2.1.1 **Period of Practice.** Immediately preceding application, the applicant must have spent five (5) years **involved** in the practice of child welfare law.

Part 2 Substantial Involvement

- 2.2 **Substantial Involvement.** The applicant must make a satisfactory showing of substantial involvement relevant to child welfare law, with at least thirty (30) percent of his or her time involved in child welfare law during the five (5) years preceding the filing of the application.
 - 2.2.1 **Evidence of Substantial Involvement.** Evidence of substantial involvement *may* be shown by the following activity over the five (5) year period preceding application. (The following are sample criteria for substantial involvement. Although applicants meeting each of these criteria would clearly satisfy this requirement, applicants are not required to meet all of these criteria. Additionally, applicants may submit other activities as evidence of substantial involvement.):
 - Participation in 45 child welfare matters during the three years preceding the filing of the application
 - Direct or cross examination of 25 lay witnesses
 - Direct or cross examination of 10 expert witnesses

- Referral of 25 child welfare matters to collateral systems, such as the education system, mental health system, criminal, immigration, or other system, which demonstrates applicant's knowledge of and appreciation for representing the whole client
- Making 25 visits to the community, such as a home visit to a client, foster parent, family resource, the case address, field office, or scene of the crime
- Consultation with a non-legal expert on some aspect of child welfare, child development, or medical or related issues in 10 cases
- Consultation with a non-legal professional on some aspect related to the representation of the client's interests in 20 cases
- Collection of relevant information from outside sources in 45 child welfare matters
- Participation in 10 negotiated settlements
- Participation in 5 appellate or writ matters

Participation in special education advocacy, child benefits, criminal child abuse, domestic violence, adoption / guardianship, juvenile delinquency, and divorce and custody matters will be considered.

2.2.3 **Verification.** Applicants are required to verify by sworn statement under penalty of perjury in the application process that the evidence of substantial involvement indicated is true and accurate.

2.2.4 **Waiver for Judges, Magistrates, Supervisors, Directors, Law Professors, and Policy Advocates.** The requirements of this section may be waived for any person who has served as a dependency court judge, magistrate, supervisor, director, law faculty, or policy representative for three years at any time during the last five years. Applicants using this waiver are required to provide detailed information about their service.

Part 3 Educational Experience

2.3 **Educational Experience.** The applicant must demonstrate substantial participation in continuing legal education relevant to child welfare law in the three-year period immediately preceding application. Topics deemed relevant to child welfare law include but are not limited to substantive and procedural law, trial practice, alternative dispute resolution, child abuse and neglect, child development, and family dynamics and relationships:

- a. By attendance at not less than thirty-six hours in programs of continuing legal education, including in-house staff trainings, acceptable to the NACC Certification Committee. Programs must also be approved by the South Carolina Commission on CLE and Specialization. Pre-approval of trainings with the NACC is not required; and / or
- b. By equivalent participation through, but not limited to, the following means, acceptable to the NACC Certification Committee (Pre-approval is not required).
 1. Teaching courses or seminars in child welfare law approved by the SC Commission on CLE and Specialization for credit;
 2. Participation as panelist, speaker, or workshop leader, at educational or professional conferences in child welfare law approved by the SC Commission on CLE and Specialization for credit;
 3. Authorship of books or of articles published in professional journals in child welfare law.

Part 4 Peer Review

2.4 **Peer Review.** The applicant shall submit with application the names of no less than five (4 attorneys, 1 judge) and no more than eight (6 attorneys, 2 judges) references. These references shall be substantially involved in child welfare, and familiar with the applicant's work. References satisfactory to the NACC must be received from at least one judge / magistrate and four attorneys who can attest to the applicant's competence in child welfare law. A reference from an individual who has served as opposing counsel is encouraged. References may not be provided by persons related to the applicant or by those who are engaged in the legal practice with the applicant.

2.4.1 **Collection of References by NACC.** NACC will solicit confidential statements from all persons listed as references and may solicit confidential statements of reference from other persons, familiar with the applicant's practice, not specifically named by the applicant. All reference statements received will be reviewed by the NACC to assess whether the applicant has demonstrated an appropriate level of skill and expertise.

Part 5 Examination

2.5 **Examination.** The applicant must pass the NACC Child Welfare Law written competency examination. The examination may be taken any time during the application period. Exam results have no bearing on the Application Review (Section 5) or Petition of Reconsideration/Appeal process (Section 6). An applicant may pass the exam, but denied certification if other standards have not been met.

2.5.1 **Examination Review.** An applicant who fails to pass the examination may, within two (2) months after the results have been announced, review his or her examination in such a place as the NACC may designate. If an applicant chooses to review his or her examination, he or she forfeits his or her right to re-take the examination. An applicant who passes the examination shall not be entitled to review his or her examination.

Part 6 Writing Sample

2.6 **Writing Sample.** The applicant shall submit a copy of a trial court memorandum, appellate brief, article, or a writing sample demonstrating legal analysis in the field of child welfare law. This should be a substantial writing sample, stating facts and arguing law, submitted or drafted no more than three years before the date of application.

Part 7 Disclosure of Conduct

2.7 **Disclosure of Conduct.** In order to assist the evaluation of whether the applicant possesses an appropriate level of skill and expertise and has demonstrated integrity and dedication to the interests of clients, the applicant shall, to the extent known, disclose to the NACC as soon as permitted by law:

- (a) The filing of any criminal charges against the applicant together with all details;
- (b) The filing or submission of any allegation of unethical or inappropriate professional conduct with any court, grievance committee or disciplinary board or body together with all details;
- (c) The assertion of any claim of professional negligence or professional liability, whether or not suit has been filed.

2.7.1 **Findings.** The National Association of Counsel for Children shall determine, in accordance with these Standards, whether action should be deferred pending receipt of additional information. The NACC will take into consideration any findings made by other bodies concerning such

conduct, but is not bound by any such findings and will make its own independent assessment concerning how such conduct bears on whether an attorney is qualified to obtain or maintain certification.

- 2.7.2 **Failure to Disclose.** The failure of an applicant to disclose such conduct is a material misrepresentation and may be cause for rejecting an application, or for suspending a certification. The applicant shall have a continuing duty to disclose such matters to the NACC.

Section 3 Recertification Standards

Part 1 Good Standing and Period of Practice

- 3.1 **Good Standing and Period of Practice.** The applicant must satisfy the good standing and period of practice requirements of certification set forth in Section 2, Part 1 of these standards.

Part 2 Substantial Involvement

- 3.2 **Substantial Involvement.** The applicant must satisfy the substantial involvement requirements of certification set forth in Section 2, Part 2 of these standards.

Part 3 Educational Experience

- 3.3 **Educational Experience.** The applicant must show that he or she participated in and completed at least seventy-five hours of educational activity, as set forth in Section 2 Part 3 of these standards, during the five years preceding recertification.

Part 4 Peer Review

- 3.4 **References.** The applicant shall submit with application the names of no less than five (4 attorneys, 1 judge) and no more than eight (6 attorneys, 2 judges) references. These references shall be substantially involved in child welfare law, and familiar with the applicant's practice. References satisfactory to the NACC must be received from at least one judge who can attest to the applicant's competence in child welfare law. References may not be provided by persons related to the applicant or by those who are engaged in the legal practice with the applicant.

- 3.4.1 **Collection of Peer Review Statements.** NACC will solicit confidential statements from all persons listed as references and may solicit confidential statements of reference from other persons, familiar with the applicant's practice, not specifically named by the applicant. All reference statements received will be reviewed by the NACC to assess whether the applicant has demonstrated an enhanced level of skill and expertise.

Part 5 Disclosure of Conduct

- 3.5 **Disclosure of Conduct.** The applicant shall comply with Section 2 Part 7 of these standards in the same manner as an applicant for certification.

Part 6 Examination and Writing Sample

- 3.6 **Examination and Writing Sample.** Applicants for recertification shall NOT be required to take a written examination or provide a writing sample.

Section 4 Annual Reporting

- 4.1 **Annual Reporting.** Annually, certified attorneys will be required to submit a Disclosure of Conduct and annual dues. The certified attorney's annual dues and Disclosure of Conduct must be current before an application for recertification will be granted.

Section 5 *Application Review*

- 5.1 **Application Review.** Applications for certification and recertification shall be reviewed by the NACC Certification Committee, a majority of the members of which shall be lawyers who have substantial involvement in the area of child welfare law. The NACC Certification Committee consists of 10 members, five of whom shall be designated even numbered reviewers and five of whom shall be designated odd numbered reviewers. Each Applicant will be assigned a registration number and reviewers will rotate applications so that a five member panel reviews each application.

Section 6 *Denial or Revocation of Certification: Reconsideration and Appeal*

- 6.1 **Denial of Certification.** An applicant for certification may be denied for failure to comply with any of these standards.
- 6.1.1 **Denial of Recertification.** An application for recertification may be denied for failure to comply with any of these standards.
- 6.1.2 **Revocation.** An existing certification may be revoked for failure to demonstrate maintenance of an enhanced level of skill and experience and integrity and dedication to the interests of clients as required for certification or for failure to maintain compliance with the financial responsibility requirements (payment of certification fees).
- 6.1.3 **Reconsideration and Appeal.** Decisions of the NACC Certification Committee are subject to reconsideration by the NACC Certification Committee, and thereafter, appeal to the NACC Board of Directors. An attorney who is refused certification for any reason, or who is refused recertification or whose certification is revoked may pursue review under the following reconsideration and appeal procedures of the NACC.
- 6.1.4 **Petitions for Reconsideration.** After written notice has been sent by the NACC Certification Committee that an application for certification or re-certification has been denied, or a certificate has been revoked or suspended, the applicant may petition the committee for reconsideration. Such petition must be received by the committee within 30 days of the date that the notice was sent by the Certification Committee. The petition may be informal, but shall be in writing and adequately identify the determination for which reconsideration is requested, the date of mailing of such determination, the reasons the determination should be altered, and the relief requested.
- 6.1.5 **Reconsideration by NACC Certification Committee.** Petitions for reconsideration shall be reviewed by the same 5 member section of the committee which reviewed the original application. The reviewers shall decide whether to grant the requested relief after considering the applicant's petition and any additional information obtained. The applicant shall be advised of the Certification Committee's decision by written notice mailed within 15 days after the decision has been made.
- 6.1.6 **Appeal.** Reconsideration decisions of the Certification Committee may be appealed to the NACC Board of Directors. The five members of the Certification Committee who reviewed the initial application and petition for reconsideration shall not be allowed to sit in review of the appeal. The appeal shall be in writing and shall be received by the Board of Directors within 30 days after written notice of the reconsideration decision. The Board shall decide whether to grant the requested relief after considering the applicant's petition and any additional information

obtained. The applicant shall be advised of the Board's decision by written notice mailed within 15 days after the decision has been made.

- 6.1.7 **Appeals Final.** Appeal decisions of the NACC Board of Directors are final. Exhaustion of this right shall be a condition precedent to judicial review.
- 6.1.8 **Hearings.** Although there is no right to a hearing on a petition for reconsideration or appeal, the committee or board may, in its discretion, grant the petitioner an in person or telephone hearing.
- 6.1.9 **Reapplication Waiting Period.** A lawyer who is refused certification or recertification, or whose certification is revoked, may not apply for certification until one year after the date of such refusal, denial or revocation.
- 6.1.10 **Suspension of License.** Suspension of license to practice law shall operate as an automatic revocation of certification.
- 6.1.11 **Premature Publication.** A lawyer who publicizes a certification or application for certification prior to its being granted or continues to publish certification after it has been revoked or suspended, may be barred from certification.

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