



CWLS Exam FAQs and Specifications

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Exam Phase of the Application Process

At what point in the CWLS application process do I take the exam?

- The CWLS application process consists of two phases: Initial Application and CWLS Exam. The CWLS Certification Committee must review and approve your completed Initial Application before you can move on to the CWLS Exam phase.
- Once your application is committee-approved, you will receive an email from NACC with your exam login credentials.
- You will have 3 opportunities to take the exam - once in the same calendar year your application was committee-approved (even if it is approved in December, for example, that year counts as your first opportunity), and once in each of the two subsequent calendar years. You cannot take the same exam more than once per calendar year.

Scope of the CWLS Exam

What does the exam cover?

- The CWLS exam is designed to assess applicants' knowledge of the major competency areas of dependency law and practice. All questions on the national exam are drawn from *Child Welfare Law and Practice: Representing Children, Parents, and Agencies in Neglect, Abuse, and Dependency Cases* (also known as the "Red Book"). The exam content is based on federal law and practice current at the time of publishing. The current CWLS exam is based on the 4th edition of the Red Book. **California Applicants:** See note below for exception.
- The application fee includes a copy of the Red Book. The first step in the online application includes instructions for how to obtain your complimentary copy.
- An outline of the Red Book contents and the rough percentage of questions on the exam that come from each section and chapter of the book are found on the Exam Competency Distribution Chart (the Exam Matrix) (page 8). The matrix can serve as a guide to focus your study efforts.

California Applicants: Important Note

- NACC no longer requires passage of a separate California exam in addition to the national exam. NACC is required to include California law on the exam for California applicants and will do this in the Essay Question section of the exam. As described below, there are two essay questions on the CWLS exam. *Essay 2 on the CWLS exam for California applicants is specific to California law. It is designed to assess your knowledge of applicable California Welfare and Institutions Code provisions and state-level child welfare case law.* Essay 1 and all multiple choice questions are national as described above.

Number, Type, and Scoring of Questions

How many questions are there and how many points do I need to pass?

- The exam is scored out of 100 possible points.
 - There are 60 multiple choice questions each worth 1 point, making up 60% of the total score. They range from straightforward questions about a specific provision of law to identifying the correct course of action based on a hypothetical fact pattern.
 - There are 2 essay questions worth 24 and 16 points each, making up 40% of the total score. For essay questions, you will be provided with a fact pattern or scenario; you will be told what role

you play in the scenario; and you will be asked how you would approach various issues from the perspective of your role. Points are awarded based on your identification and analysis of key issues and considerations. The questions are usually multi-part and require multi-part responses.

- You must receive a combined score of 68 or better to pass the exam.
- Answer every question – you will not be penalized for wrong answers.
- See the Sample Questions section (starting on page 9) for examples.

Exam Length

How much time do I have to complete the exam?

- You will have a total of 3 hours and 55 minutes to complete the exam including the multiple choice questions, the essay questions, and any restroom or other breaks you wish to take throughout the exam – the clock will keep running once you begin.
- The 3:55-hour block of time is **not** divided into a specific amount for multiple choice, a specific amount for essays, or specific break periods. You are responsible for managing your time.
- 15 minutes have been added to the total exam duration for breaks at your discretion. You can get up to take bathroom breaks when necessary; however, the exam clock will not stop running. You are not required to take breaks.
- Your 3:55-hour exam time is yours to allocate – here's roughly what we recommend:
 - Multiple Choice (60 questions/60 points) – 2 hours (2 minutes per question)
 - Essay 1 (24 points) – 1 hour
 - Essay 2 (16 points) – 40 minutes
 - (Optional) Total Break Time – 15 minutes

Preparing for the Exam

How should I study for the exam?

- The national CWLS exam is based on the contents of *Child Welfare Law and Practice: Representing Children, Parents, and Agencies in Neglect, Abuse, and Dependency Cases* (the Red Book). This should be your main study resource. **However, you are prohibited from using the Red Book during the exam.** The exam is open-notes and you may use any other *hardcopy* reference materials/books you choose during the exam *except the Red Book*.
- Review the Exam Matrix (page 8). The matrix gives you an idea of where to focus your studying by showing the rough percentages of multiple choice questions on the exam that come from each section and chapter of the Red Book.
- Review the sample questions starting on page 9 to familiarize yourself with the type and structure of the multiple choice and essay questions you will face.
- Consider taking NACC's Foundations of Child Welfare Law and Practice (formerly "the Red Book Training") in one of the three formats offered: the asynchronous online course, the live online course offered each spring, or the one-day, in-person course offered annually at NACC's national conference. These training courses review the major child welfare competency areas covered in the Red Book. The courses include access to a comprehensive workbook to guide you through the training content. This workbook (if printed out in hardcopy) can be used during the exam. *These trainings are optional.*
- **California Applicants:** Essay 2 on your exam will assess your knowledge of applicable California WIC provisions and state-level child welfare case law using the same essay question structure –

hypothetical fact pattern followed by questions. The *California Dependency Quick Guide* (the “Dogbook”) published by the Judicial Council of California is the recommended resource for Essay 2.

Exam Administration

How is the exam administered?

- The CWLS exam is administered remotely. You will take the exam on your own computer or laptop with a webcam and microphone enabled. Your exam session will be recorded (the webcam video, your screen, and audio).
- NACC uses **ExamSoft's** secure testing software. This includes:
 - **Exemplify** (the actual question/answer platform);
 - **ExamID** (ID verification using facial recognition software); and
 - **ExamMonitor** (audio/video/screen monitoring using AI software to flag irregularities which are then reviewed by NACC).

When and where is the exam offered?

- You can take the exam on a date and at the time of your choosing at any point during our exam season (generally, March through December) once your application is committee-approved. We recommend avoiding national holidays and the last week of December as technical support may be limited or unavailable.
- You can take the exam in any location you choose provided you are alone in a quiet space and have an internet connection at the beginning and end of the exam.
- You do not need to schedule an appointment or inform NACC of your chosen date.
- You must take a 9-minute mock exam prior to your chosen exam day in order to establish your identity and familiarize yourself with the exam platform. You may take the mock exam just once or multiple times if you wish.

Is the exam open-notes and/or open-book?

- The exam is open-notes. You may use *hardcopy* notes, workbooks, training materials, and study guides (including the Foundations workbook), and any other *hardcopy* legal reference books **except the Red Book**. No electronic resources are allowed.

What is prohibited during the exam?

- **You may not use any edition of *Child Welfare Law and Practice* (the Red Book) in any format** (not the book itself, not photocopies, and not the electronic version).
- You may not use any online or electronic resources. *All materials must be hardcopy.*
- You may not have dual monitors or other screens visible to you (phone, tablet, etc.).
- You may not wear headphones or earbuds.
- You may not speak to anyone (unless calling tech support) and must be alone in the room.
- You may not access your smartphone or other mobile devices, even to track time. We suggest wearing a wristwatch or having an actual clock nearby to keep yourself on pace. A default timer has been set in Exemplify to warn you when you have 5 minutes left. (The one exception to the phone prohibition is if you need to call ExamSoft for technical support.)

What is allowable during the exam?

- You may use *hardcopy* notes, workbooks, training materials, and study guides.
- You may use any other *hardcopy* legal reference books **except the Red Book**.

- You may stand up, stretch, and leave the room for breaks as needed. The exam clock will not stop during breaks. Exam monitoring and recording will not stop during breaks.
- You may wear any type of head-covering as long as it does not obscure your eyes.
- You may have a water bottle/glass/mug on your desk.
- You may call ExamSoft for technical support (1-866-429-8889) if a technical problem occurs during the exam: Announce to the webcam that you are getting your phone to seek technical assistance. Then bring your phone back to your computer and make the call in front of the webcam. Remove your phone from the testing area as soon as the support call ends.

Where can I learn more about exam administration?

- Please review the CWLS Exam User Guide posted in the Additional Resources section of NACC's [CWLS applicant webpage](#) for more information and step-by-step instructions for logging into the exam software once you're eligible, navigating the system, and taking the exam.

Technical Specifications

What are the minimum system requirements needed to run the exam software?

- You can review the full requirements here:
<https://support.examssoft.com/hc/en-us/articles/11145767390477-Exemplify-Minimum-System-Requirements>
- You can take the exam using either a Windows or Mac operating system on a desktop computer, laptop, or allowable tablet. If using a laptop, you should connect to a power source or have your charger nearby.
- You must download the most recent version of Exemplify.
- You must have at least 4GB of available space on your hard drive.
- You must have at least 4GB of memory (8GB RAM recommended).
- You must have a built-in or external/USB webcam. Virtual cameras are not supported.
- You must have a built-in or external/USB microphone. No headphones/earbuds or virtual mics allowed.
- You must have an internet connection at the beginning of the exam and during the upload process at the end of the exam. The minimum internet upload speed you need is 2.5Mbps. Uploading a 4-hour video file at this lowest allowable speed could take 45 minutes. (You can check your speed by visiting a speed-testing site like www.fast.com or www.speedtest.net.)

How does ExamID (identity verification) work?

- The ExamID software is used to authenticate your identity. The software is intended to confirm that the person sitting in front of the camera to take the exam is the same person who registered for the exam and took the mock exam.
- During the mandatory mock exam, ExamID will take a baseline photo of you. When taking this baseline photo in the mock exam and during the actual exam, you need to sit in a well-lit room with front-facing lighting. In other words, the lighting on your face needs to be brighter than the lighting behind you. For the best results, have a light behind the webcam facing you. Do not sit with your back to a window on a bright day or have a lamp behind you.
- If possible, take this baseline photo in the same room you intend to take the actual exam.

- The software will confirm that the photo taken in the mock exam is acceptable. At the start of the actual exam, ExamID will take another photo of you and will compare it to the photo taken during the mock exam to authenticate your identity.

How does ExamMonitor (remote auto-proctoring) work?

- The proctoring software will record you (both audio/video and your screen) throughout the exam.
- At the end of the exam, the recording file will be uploaded to ExamSoft. ExamSoft's AI program, ExamMonitor, will analyze the recording and flag any unusual behaviors, movements, or sounds.
- The videos of flagged incidents are reviewed by NACC to see if any further action is necessary. For example, a barking dog or a siren in the background might be initially flagged by AI but cleared upon subsequent review by NACC. Likewise, if you get up to take a break, AI will flag this since your face will no longer be in-frame. Breaks are allowable, so that flag will be cleared by NACC.

What if I need technical support?

- If you need support prior to exam day or before the exam starts, contact ExamSoft (24/7 – some national holidays excluded) at:
 - Phone: 1-866-429-8889
 - Email: support@examsoft.com
 - Chat: <https://support.examsoft.com/hc/en-us> (chat box in bottom right corner)

Exam Results

When and how will I get my results? What if I fail?

- Typically, you will be notified of results via email by the end of the month following the month you sat for the exam (e.g., results for exams taken in April will be available by the end of May).
- If you pass, your notification will indicate that you passed. You will not be given your score. If you were not successful, your score will be included in your notification.
- If you are not successful the first time around, you can try again in the next calendar year. You can sit for the exam once per calendar year while your application is open (a maximum of three years).
- There is no exam retake fee.

Exam Accommodations

Are exam accommodations available?

- Yes, exam accommodations may be granted under certain circumstances. Please contact Certification@NACCchildlaw.org to initiate the process. We will review your specific situation and determine what documentation NACC will need in order to grant an accommodation request.

Exam Competency Distribution Chart (Exam Matrix)

Child Welfare Law and Practice, 4th Edition Matrix	% of Exam	# of Qs
SECTION I: OVERARCHING LEGAL STRUCTURE AND THEMES	17-20%	10-12
Introductory Chapter: Justice as the Through Line	0-2%	0-1
Chapter 1: Constitutional Right to Family Integrity	3-6%	2-4
Chapter 2: History of Child Protection Law	0-2%	0-1
Chapter 3: Federal Child Welfare Legislation	3-6%	2-4
Chapter 4: Racial Justice	1-3%	1-2
Chapter 5: Parents and Children with Disabilities	1-3%	1-2
Chapter 6: LGBTQ+ Justice	1-3%	1-2
Chapter 7: Indian Child Welfare Act	1-3%	1-2
SECTION II: LEGAL CASE FROM BEGINNING TO END	17-20%	10-12
Chapter 8: CPS Investigations Overview	1-3%	1-2
Chapter 9: Parents' Rights in Child Protective Services Investigations	1-3%	1-2
Chapter 10: Removal Standards and Reasonable Efforts	1-3%	1-2
Chapter 11: Adjudication: Defining Abuse and Neglect	3-6%	2-4
Chapter 12: Disposition & Reunification	3-6%	2-4
Chapter 13: Establishing Legal Permanence for the Child	1-3%	1-2
Chapter 14: Terminating a Child's Relationship with their Parent	1-3%	1-2
Chapter 15: Appellate Advocacy	1-3%	1-2
SECTION III: DISCRETE ISSUES	35-38%	21-23
Chapter 16: Educational Advocacy	1-3%	1-2
Chapter 17: Foster Parent Rights, Roles, and Responsibilities	0-2%	0-1
Chapter 18: Representing Non-Offending Parents	1-3%	1-2
Chapter 19: Preventing Crossover and Representing Dual-Status Youth	1-3%	1-2
Chapter 20: Mental Health Evaluations and Treatment for Parents and Children	1-3%	1-2
Chapter 21: Confidentiality	1-3%	1-2
Chapter 22: Representing Transition Aged Youth	3-6%	2-4
Chapter 23: Child Trafficking	1-3%	1-2
Chapter 24: Collaborative Processes and Family Engagement	0-2%	0-1
Chapter 25: Interstate Issues	3-6%	2-4
Chapter 26: Collateral Proceedings	3-6%	2-4
Chapter 27: Immigration Issues: Representing Children and Parents Who Are Not U.S. Citizens	1-3%	1-2
Chapter 28: Social Security Benefits and Child Protection	1-3%	1-2
SECTION IV: LAWYERING ROLES	17-20%	10-12
Chapter 29: Lawyers for the Agency	3-6%	2-4
Chapter 30: Lawyers for Parents	3-6%	2-4
Chapter 31: Lawyers for Children	3-6%	2-4
Chapter 32: Preventative Legal Advocacy	1-3%	1-2
Chapter 33: Multidisciplinary Advocacy	1-3%	1-2
Chapter 34: Trauma and the Child Protection System	1-3%	1-2
SECTION V: ESSENTIAL LAWYERING SKILLS	7-10%	4-6
Chapter 35: Trial Skills	1-3%	1-2
Chapter 36: Special Evidentiary Issues	3-6%	2-4
Chapter 37: Achieving Large-Scale Change Through Systems Advocacy	0-2%	0-1

Sample Questions

Sample Multiple Choice Questions

1. You represent three siblings, ages 14, 10, and 8 in a client-directed jurisdiction. The case is quickly moving toward termination because the mother is not making adequate progress on her case plan. The 14-year-old child desperately wants to return home to his mom and doesn't understand why he can't. He also desperately wants to stay with his two younger siblings who he had been caring for in a "parental" manner for years prior to entering foster care. The three siblings are currently placed together in a foster home and the foster parents are willing to adopt all three children. The 14-year-old says he would rather be with his mom and even though she can't always take care of them, at least she never hit them. When asked what he meant by that, he relays that his foster dad hits him and his siblings sometimes. When the 10- and 8-year-olds were asked, they indicated that their foster parents never hit any of them and both of them expressed a strong desire to be adopted.

Do you have a conflict in representing all of the siblings?

- A. No, because the reason for the difference in preference by the 14-year-old does not undermine the other siblings' position, which is the standard for determining a conflict.
 - B. Yes, since the 14-year-old has provided evidence that is contrary to the other siblings' preference.
 - C. Yes, unless you are appointed as the best interest advocate, because it is clearly in all children's best interest to be adopted.
 - D. Yes, if after investigation and counseling the 14-year-old you determine his preference would undermine your ability to advocate for the other siblings.
2. A 3-year-old girl is in the temporary custody of the agency in Maryland. She was removed from the custody of her mother. Her father is on her birth certificate, pays child support, and has a relationship with the girl. Prior to coming into care, the girl spent summers with father, at her paternal grandparents' home. Her grandparents, who live in Pennsylvania, want her to come live with them. Both of the girl's parents support this plan.

What is the most efficient way, using the ICPC Regulations, to place the girl with her paternal grandparents out-of-state?

- A. Argue that the plain language of the ICPC Regulations does not apply the ICPC to placements with parents and relatives.
 - B. Characterize the girl's placement with her grandparents as a "visit", pursuant to ICPC Regulation 9.
 - C. Ensure the state uses the expedited placement process pursuant to ICPC Regulation 7.
 - D. Check if Maryland has adopted the new ICPC.
3. You are supervising 3rd year law students during their externship placement with your child law office this summer. They have all been certified under your state's student practice act and are expected to take responsibility for a case this summer. During their first week, you spend a significant amount of time training them on what it means to represent children in dependency proceedings, including interviewing child clients. During your presentation on interviewing skills, you provide information about the importance of using open-ended vs. closed-ended questions. You use a hypothetical about

interviewing an elementary school-age client to help with your training. One of your students challenges your assertion about open-ended questions by asking, “but by asking closed-ended questions we can focus the child on what we want to know and get more accurate information, right?”

What is the best response given the research in this area?

- A. While it may be true that closed-ended questions focus on a particular topic, they do not provide an opportunity to learn new information which is often critical to your case.
 - B. Open-ended questions are always a better interview strategy than closed-ended questions because closed-ended questions will always be answered with one word.
 - C. That is a good point, however, closed-ended questions are particularly inappropriate for young children who will generally just guess at an answer due to the suggestive nature of the questions.
 - D. I have been doing this work for many years and have developed an expertise. I am here to teach you the right way to do things. Therefore, I expect you to use only open-ended questions this summer.
4. You represent a 16-year-old child who is residing in a foster home where she has lived for the past year. She has a close relationship with her foster parents, and they seem to keep her best interest in mind when they are making decisions. Your client has expressed to you that she wants to get her driver’s license but needs an adult to agree to allow her use of a car to practice and to insure her. The agency said that they do not provide support to children in their custody obtaining driver’s licenses because they do not have the resources. You have spoken to the foster parents who are willing to let the child use their car and also to put her on their car insurance policy. You believe that under federal law, the agency is not complying with its obligations to the child.

Which of the following is an accurate statement of federal law that would support your argument?

- A. The Child Abuse Prevention and Treatment Act (CAPTA) requires state agencies to pay for driver’s training for children in foster care.
 - B. The Foster Care Independence Act states that as part of the agency’s responsibility to prepare youth for independence, they must support youth in obtaining their driver’s license and pay for any related expenses.
 - C. The Preventing Sex Trafficking and Strengthening Families Act allows children to be involved in developmentally appropriate activities as determined by foster parents using the reasonable and prudent parent standard.
 - D. The Fostering Connections to Success and Increasing Adoptions Act seeks to promote the success of children in foster care and provides that the agency must work with the child/youth to determine paths to success.
5. You represent an unmarried father whose children were removed after their mother was arrested on drug-related charges. The agency claimed that the father had no “legal right” to the children even though there was no dispute that he was the biological father and that he was actively involved in their lives as a parent.

Which legal argument is a correct statement of the law that most helps your client?

- A. Under *Stanley v. Illinois*, all parents are constitutionally entitled to a hearing on fitness before their children are removed from their custody.
 - B. Under *Caban v. Mohammed*, a father has the right to object to his children's adoption by their stepfather where the father demonstrated significant involvement in the children's lives and care.
 - C. U.S. Supreme Court precedent gives greater protection to unwed fathers who have shown a "substantial interest" in their children's lives.
 - D. Under *Troxel v. Granville*, parents are presumed to be fit parents until proven otherwise.
6. What is the standard the state court must apply in an ICWA case when the state seeks to remove an Indian child from their parent?
- A. Beyond a reasonable doubt that continued custody by the parent is likely to result in serious emotional or physical damage.
 - B. Probable cause that continued custody by the parent is likely to result in serious emotional or physical damage.
 - C. Clear and convincing evidence that continued custody by the parent is likely to result in serious emotional or physical damage.
 - D. By a preponderance of the evidence that continued custody by the parent is likely to result in serious emotional or physical damage.
7. In a case involving an Indian child, if the state law and ICWA are inconsistent, which law should be applied?
- A. In a case involving an Indian child, ICWA must always be applied.
 - B. If the state court has jurisdiction (as opposed to tribal court), then it should apply the state law.
 - C. Even when the state court is hearing the case, it must apply the law that the tribal court would be bound by.
 - D. Whichever law provides the highest protection to the rights of the parent of the Indian child should be applied.
8. Which of the following is true?
- A. Parents who are subject to a dependency court's jurisdiction are required to sign a consent form authorizing release of otherwise confidential health records.
 - B. All records and reports generated in a dependency proceeding are governed by the Child Abuse Records Disclosure Act, a comprehensive federal law covering all records relevant to a child abuse or neglect case.
 - C. Substance abuse and treatment records enjoy a higher level of protection than other records implicated by a dependency proceeding.
 - D. HIPAA disallows reporting new accounts of child abuse made by a child during a court-ordered doctor's examination.
9. Which of the following is a true statement about the federal requirement for an agency to make reasonable efforts to prevent removal?

- A. Under federal law, a finding of reasonable efforts to prevent removal must be made at the first hearing sanctioning the child's removal from the home.
 - B. The term "reasonable efforts" is not defined in federal law.
 - C. The burden is on the parent to demonstrate that the agency did not make reasonable efforts to prevent removal.
 - D. Under federal law, if a parent has previously voluntarily relinquished their rights to a sibling of the child who is the subject of the current proceeding, the agency is not required to make reasonable efforts to prevent removal.
10. You represent a 17-year-old who is in the agency's custody and has a permanency goal of another planned permanent living arrangement. He has been in care for 3 years. His mother is deceased, and his father is not involved in his life. He has been living in his foster home for about 10 months. It is 6 months before his 18th birthday, and he is anxious about leaving the system, and worried that he will lose the support of his social work/legal team. He is enrolled in his last year of high school. His goal is to graduate from high school, enroll in community college, and get his own apartment. Your state has an extended foster care program.

Under federal law, is he eligible for extended foster care?

- A. No, because he is not employed for at least 80 hours per month.
 - B. No, unless he graduates from high school and enrolls in college before he turns 18.
 - C. Yes, because he will have been in foster care for more than 3 years upon his 18th birthday.
 - D. Yes, because he is completing his secondary education.
11. You represent a youth in a dependency action who was born in a different country and was found in this country without a parent or legal guardian to care for him. He had been living with various friends for the past several months. His father was killed by gangs in the country of origin and his mother became scared, so she sent him to the United States to keep him safe. That was a year ago and he has not been able to reach his mother ever since. He has talked to some of his mother's friends in the country of origin, but they do not know where to find her either. They said they think she is in hiding because she was so traumatized by the brutal death of his father. After hearing his story, you immediately think that the child might be eligible for Special Immigrant Juvenile Status (SIJS). At the adjudication hearing, the court finds that the child is dependent on the juvenile court. You request to present further evidence that reunification with either parent is not possible due to abandonment and that it would not be in the child's best interest to return to the country of origin. The judge is concerned that this inquiry goes beyond her authority as a juvenile court judge and that she doesn't have the authority to make immigration decisions.

Of the following, which is the most accurate response under the law?

- A. Explain to the court that making these findings of fact is consistent with juvenile court authority and that an immigration court will make the ultimate determination on the child's SIJS petition.
- B. Explain to the court that by not making these findings the court would effectively be sending this child back to a country in which his mother cannot be found and his life would be in extreme danger.

- C. Explain to the court that immigration law is such that the juvenile court must make the hard decisions about children's best interests and whether it will serve their best interests to remain in the United States.
 - D. None of these is an accurate response under the law.
12. You represent the agency in an adjudication trial. The case involves allegations of sexual abuse of the child by the mother's boyfriend. You want to call the six-year-old child as a witness. The parent has objected to the child's competency to testify, and the court has scheduled a competency hearing. What must you prove at the hearing to demonstrate that the child is competent to testify?
- A. The child can perceive, recall, and communicate the facts to which they will be asked to testify.
 - B. The need for the child's testimony outweighs the trauma of testifying.
 - C. The child appreciates the duty to testify truthfully.
 - D. Both A and C.
13. Which of the following orders issued during a child protection case is most likely to be an order that is appealable by right?
- A. The adjudication order.
 - B. The disposition order.
 - C. An order finding that reasonable efforts were made to prevent removal.
 - D. An order denying a request for discovery.

Sample Essay Questions

Practice Essay #1:

You are appointed as attorney to represent two siblings, a 10-year-old boy and his 5-year-old sister, in a dependency case. The allegations that led to the children's removal from the home, according to the Department's complaint, are as follows: The children are not safe in the home as a result of their parents' drug use. The Department was called to the home by law enforcement after someone was shot and injured in the home due to a dispute over drugs. Both children were at home during the time of the shooting and the 5-year-old girl witnessed the event. Upon further investigation, drugs and drug paraphernalia were located inside the home. The mother and father refused to take a drug test at the time of removal, but they did indicate that they would both be positive for marijuana. The parents were both arrested. No family members or other adults could be located to take custody of the children. Therefore, they were placed in protective foster care.

Please discuss the following:

1. What is the best way to begin your interview with the children when meeting with them for the first time?
2. Because of the trauma of witnessing the shooting, the 5-year-old girl has been having nightmares. She is adamant that she never wants to go home again and tells you that all her parents ever do is drugs and have people over who do drugs and are mean. The 10-year-old boy desperately wants to go home and says this is the first time anything like this has ever happened. Do you have a conflict in

representing both siblings? Why or why not? Please discuss your conflicts analysis, including any applicable rules of professional conduct.

3. Without regard for how you answered the previous question, assume for this question that you at least represent the 5-year-old girl. Due to her age and the trauma she has experienced, you are concerned about her competency. Discuss the steps you take to determine her competency and how you would proceed with the representation based on that determination.

Practice Essay #2:

There is an upcoming permanency hearing in a case involving two parents and their now 2-year-old child. The history of the case is as follows:

DHS had an ongoing family preservation case after allegations of substance abuse, injurious environment, and lack of adequate supervision by the parents. DHS provided a parent-aide to address the lack of supervision and other parenting concerns and provided referrals for the parents to receive substance abuse treatment. The parents were initially cooperative with the parent-aide and complied with their treatment program. However, about 6 months into it, both parents began to only sporadically attend their treatment program, and both failed a random drug screen. The caseworker was alerted and decided to petition the court for temporary custody of the child, which the court granted.

The parents were allowed to have supervised visitation with the child, who at the time of removal was a year old. The visitation schedule was for 2 hours, one day per week at DHS in its visitation room. This visitation schedule continued for 6 months before it was increased to 3 hours, two days per week, where it remains today. The same attorney represented both parents for free because he was a friend of the family, but he didn't have any prior juvenile court experience. He never pressed the visitation issue with the court during reviews. They also asked their case manager, who always responded by saying that it was up to the court to decide. Fed up with their attorney, and not satisfied with any of the answers they were getting, the parents fired him and asked the court to be allowed to apply for a court-appointed attorney to replace him, which the court allowed.

You are appointed as the parents' new attorney. When you read through the file you are immediately concerned about the infrequency of the visitation throughout the past year, despite the parents' documented progress on their case plans. When you express your concern to the agency attorney, she tells you that, at the upcoming permanency hearing, DHS is planning on requesting that the permanency plan be changed from reunification to adoption. There have been concerns with the child's behavior after the parents' visitations and the child is thriving with the foster parents, who want to adopt him. Additionally, she will be filing a termination of parental rights petition next month because the child will have been in foster care for 15 months.

1. As the parents' attorney, what arguments would you make to the court that changing the permanency plan from reunification to adoption is premature? Include a discussion of any federal law that may support your arguments.
2. What arguments do you anticipate from the DHS attorney and how do you respond to those arguments?

Multiple Choice Answers and Essay Grading Rubrics

Multiple Choice Answers: 1=D | 2=C | 3=A | 4=C | 5=A | 6=C | 7=D | 8=C | 9=B | 10=D | 11=A | 12=D | 13=B

Practice Essay #1 Grading Rubric (24 possible points):

Part 1: Interviewing the Children	
2 points	Identifies importance of location, building rapport and trust, beginning with interview instructions and explaining the attorney role. Gives instructions such as the “I don’t know”; “I don’t understand”; “you’re wrong” instructions in addition to eliciting a promise to tell the truth. Discusses location of interview and building rapport and trust.
2 points	Discusses why location, building rapport and trust are essential and provides examples of ways to do that given the scenario.
2 points	Identifies and discusses actual interview techniques: child-centered interviewing, active listening, and the funnel technique. Discusses the importance of the interview techniques and the benefits of using them.
2 points	Discusses the reasoning behind using open-ended questions vs. closed-ended questions. Includes a discussion of the research on the benefits of using open-ended questions – such as minimizing single word answers, allowing child to respond in their own words, to elicit more details, to lower suggestibility, and allows the child to respond with “I don’t know” or discourages guessing.
Part 2: Conflicts Analysis	
1 point	Identifies the applicable rules of professional conduct: MRPC 1.7 states the general rule on conflicts, and comments to rule 1.7 also provide clarity to the lawyer.
4 points	Analyzes whether there is a conflict: cites the legal standard/rule and applies the facts in the scenario to the legal standard/rule to determine whether there is a conflict. Provides support for position through the use of the facts given in the scenario. For example, the sister’s position is different than the brother’s position and both have given information to support their position. Analyzes decision-making process within that factual context and the applicable law.
2 points	Analyzes next steps: discusses whether attorney needs to withdraw from the representation, the difficulty in securing informed consent from child clients due to their age and/or competency, and minimizing harm/disruption to the client.
1 point	Analyzes the potential of resolving any conflicts: discusses the role of attorney as counselor in discussing various positions.
Part 3: Competency Analysis	
1 point	Identifies MRPC 1.14 regarding guidance for representing clients with diminished capacity.
3 points	Analyzes attorney decision-making process: discuss balancing test of factors; fact gathering; relevant information to acquire; people that must be interviewed; interviewing the child; awareness of the role of bias.
4 points	Analyzes the sister’s competency based on fact scenario and discusses the impact of that decision on the representation, if any. Discusses substituted judgement approach and how to evaluate what the sister’s requests would be if she could articulate them. Cites to/incorporates the 2011 ABA Model Act, NACC Recommendations, and Jean Koh Peters’ seven questions.

Practice Essay #2 Grading Rubric (16 possible points):

Part 1: Developing and argument against changing permanency plan	
1 point	Identifies reasonable efforts toward reunification as an obligation of the agency. Cites the federal law that mandates reasonable efforts.
3 points	Analyzes reasonable efforts requirement. Discusses the reasonable efforts requirement in relation to the facts given and formulates an argument based on the law and the facts as to why the agency did not provide reasonable efforts and services to reunify the family.
2 points	Identifies harms of TPR to children and to parents, citing to research and studies.
4 points	Analyzes the relationship between the child and the parent, whether TPR is necessary to protect the child's safety, whether TPR will promote permanency, and any alternatives to TPR.
Part 2: Counterargument	
2 points	Identifies arguments that DHS will likely make: ASFA 15 of 22 months rule, child's need for permanency, parent's failure to make progress more quickly.
4 points	Analyzes DHS arguments and asserts counterarguments: provides an analysis of the likely arguments given the facts in the scenario and identifies counterarguments. Analyzes the likely success of those arguments.