

# *Is that required?*

**GAL Responsibilities under the  
Revised CJD & Not-So-New Billing  
Policies and Procedures**

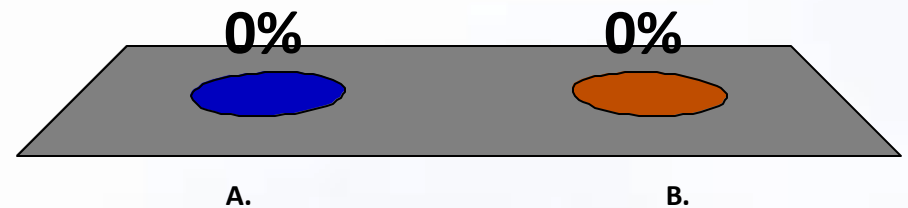
# Competition Time For All the Bragging Rights!

- Game:
  - Two Teams – Blue Team & Orange Team
  - The more people on your team that answer the questions correctly, the more points your team earns!
- Rules
  - Turn to your neighbor and consult before answering each question.
  - If you know the right answer, find a way to share it with other members of your team to earn more points!

# Sign-Up For Teams

A. Blue Team

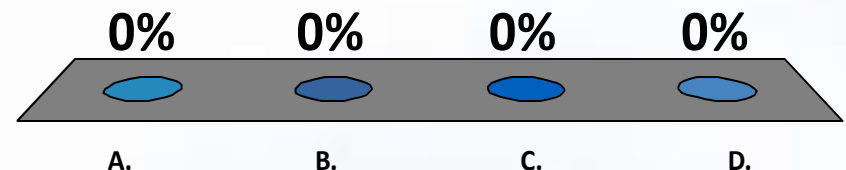
B. Orange Team



# Where can one find the OCR's Billing Policies and Procedures Manual?

Response  
Counter

- A. In a very special file somewhere in Melanie's well-decorated office.
- ✓ B. On the OCR's website.
- C. As an attachment to all of those incessant emails OCR sends to us on the listserv.
- D. What Billing Policies and Procedures?



# Team Scores

**Points**

**Team**

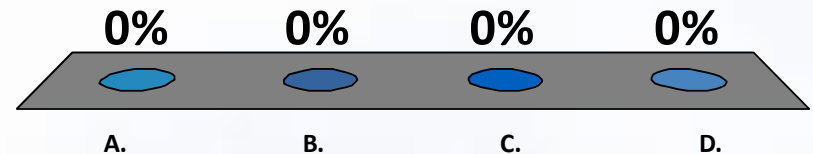
**Points**

**Team**

# Where on the OCR website are the Billing Policies posted?

- A. The “Finding Help” tab
- B. The “Training” tab
- C. The “OCR Cases” tab
- ✓ D. The “Attorney Center” tab

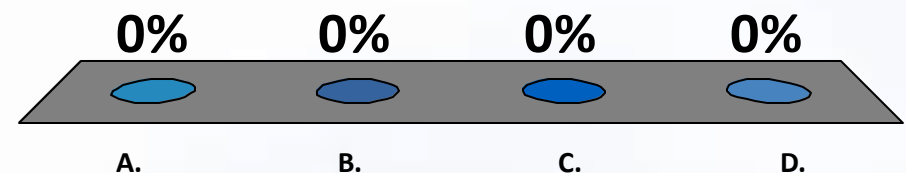
Response  
Counter



# To what appointments are the CJD revisions applicable?

Response  
Counter

- A. Only appointments that have occurred after January 1, 2016.
- ✓ B. All existing appointments.
- C. Appointments beginning next FY, July 1, 2016.
- D. Appointments that began last FY, July 1, 2015.



# Team Scores

**Points**

**Team**

**Points**

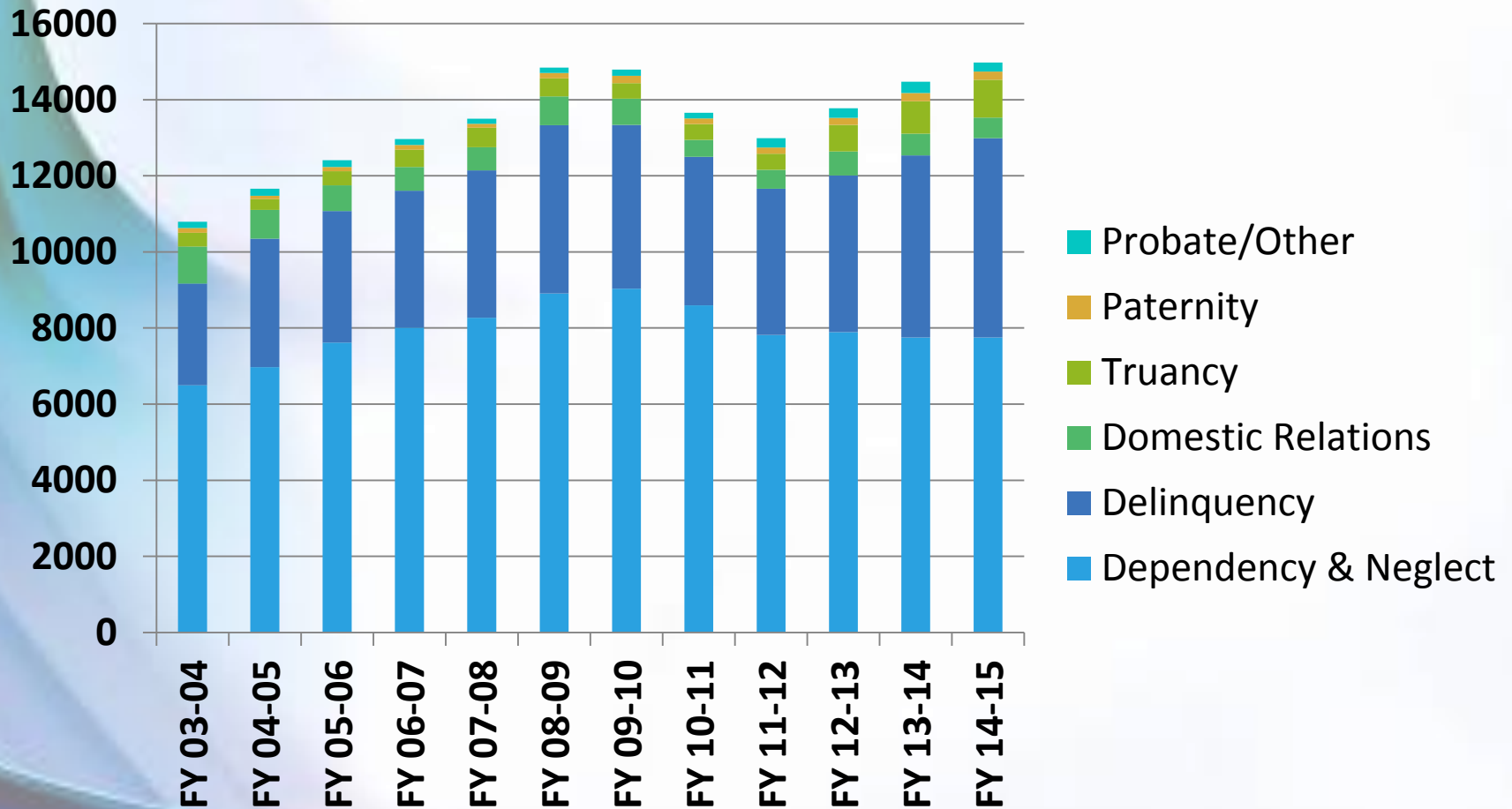
**Team**



# Impetus for Changes

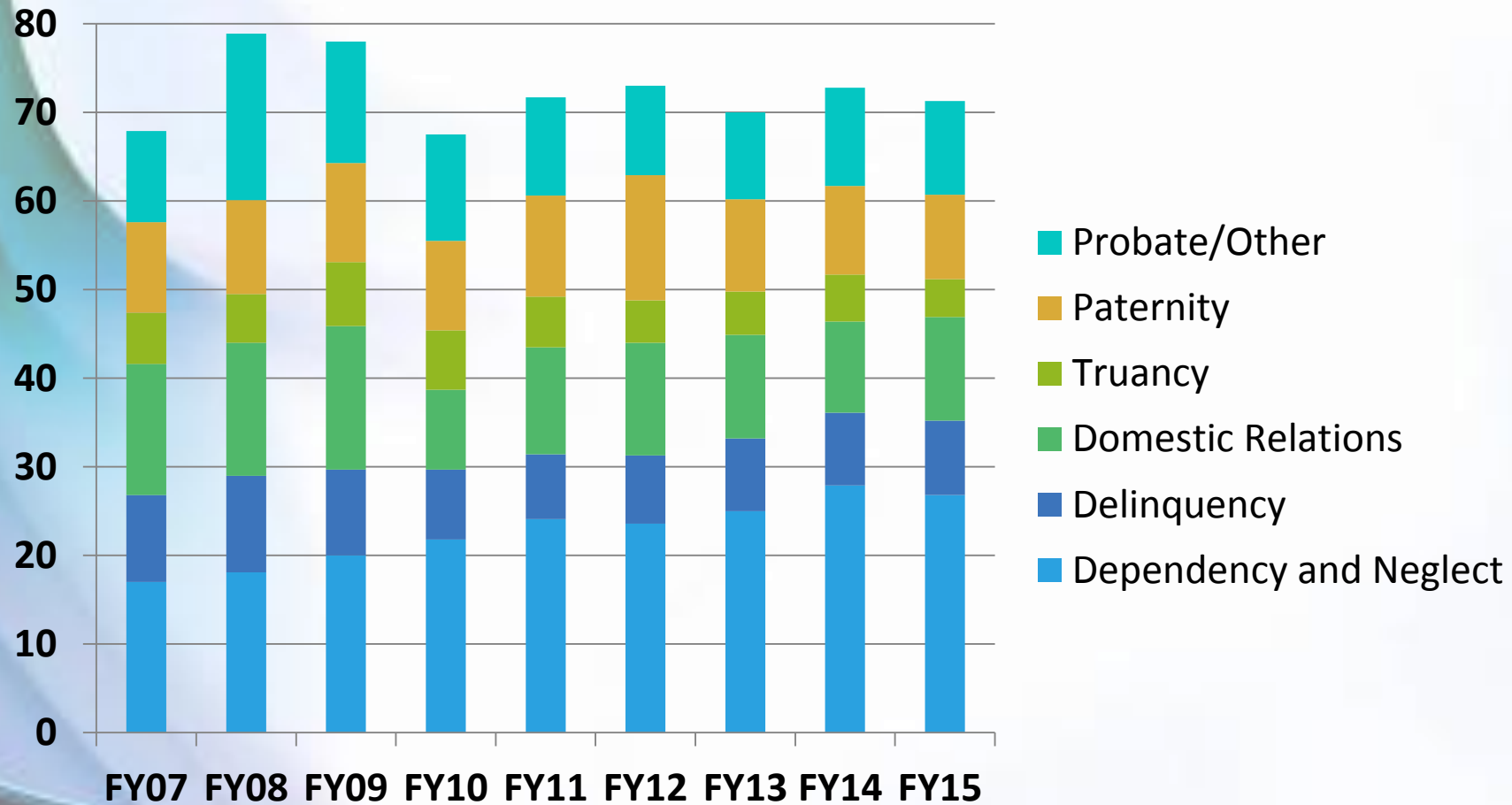
- CFI legislation: HB 15-1153
- Need for clarification of D&N standards of practice.
- Need to develop JD/Direct file standards to address:
  - Increase in appointments/composition of OCR's caseload
  - Recognition of need for effective advocacy in these case types
  - Confusion about role of GAL and inconsistency in GAL practice

# Appointments Paid FY 03-04 through FY 14-15



# Workload

## (Hours Per Appointment)



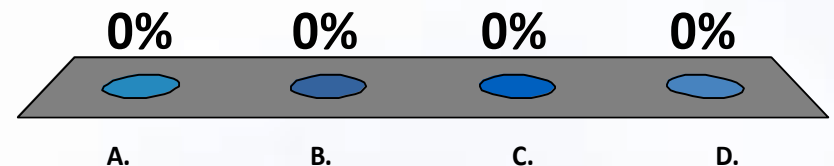
# The Process

- Drafted changes, incorporating feedback from selected delinquency GALs and October 2015 conference
- Disseminated draft on OCR listserv and to juvenile judges
  - Survey
  - Conference call
- Extensive incorporation of GAL feedback
- Proposed revisions to Chief Justice

# Which of the following is not a 2016 CJD revision?

- A. Removal of all CFI references.
- B. Indigence findings for DR appointments consistent with statutory provisions.
- C. Indigence findings required prior to billed activity; no nunc pro tunc orders.
- ✓ D. Definition of GAL's client as best interests of the child.

Response  
Counter



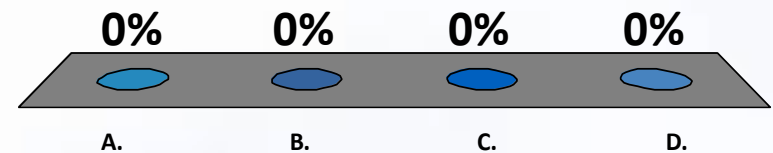
# Indigence Findings and Procedures

- Indigence findings for DR appointments consistent with statutory provisions.  
***§ IV.A.1.a.***
- Indigence findings required prior to billed activity; no nunc pro tunc orders. ***§ IV.B.1.***
  - Applies to all case types, not just DR

# Which of the following is now true about the 100 mile exception?

Response  
Counter

- ✓ A. It applies to all case types.
- B. When child is placed 100 miles outside JD boundaries, GAL can rely on CW reports alone to assess status of the child & placement.
- C. GAL does not need to conduct in-placement visit if child is placed over 100 miles away from GAL's office.
- D. Geographical boundary for Judicial District is defined by county line.



## 100 –MILE EXCEPTION

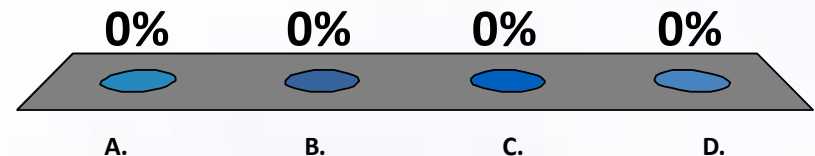
- 100-mile placement visit exception is:
  - now applicable to all case types
  - clearly defined in light of geographical boundaries of judicial **district**
- When 100-mile exception applies, GAL has ongoing obligation to engage in independent investigation that includes interviews and observations (electronic or other means of communication permissible). **§ V.G**



# What do I need to know about billing for travel?

Response  
Counter

- A. There is no travel request form to complete. I just email my OCR staff liaison.
- B. OCR really discourages travel when child's placement invokes 100 mile exception.
- C. Approval of travel request constitutes approval for 12+ hour day, excess fee approval.
- ✓ D. I need to seek preapproval for travel over 100 miles one way on JD appointments.



# Team Scores

**Points**

**Team**

**Points**

**Team**

# Annual Compliance Certification

- All attorneys (not just D&N) will now need to complete compliance certification.
  - Affidavit of compliance is no longer necessary—OCR will provide form through OCR's verification/application process.

***§ V.H***

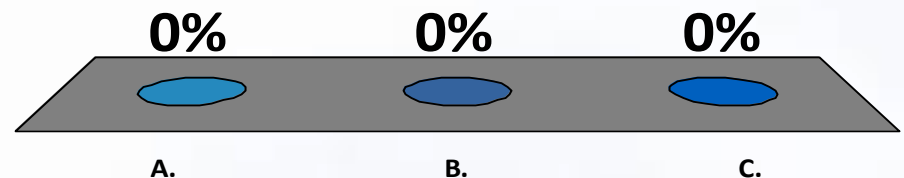


# **DEPENDENCY AND NEGLECT**

**Do I need to do a placement  
visit/interview of child if I already know  
the child through an existing appointment  
(i.e., JD, truancy)?**

- ✓ A. Yes
- B. No
- C. Depends

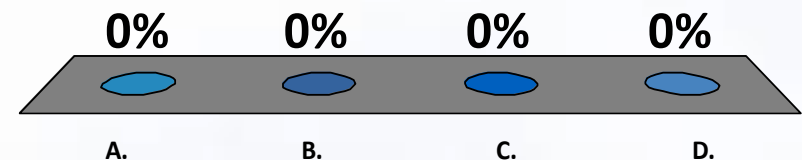
Response  
Counter



# When must the D&N GAL inform the court of the child's position (if ascertainable)?

Response  
Counter

- A. At the Permanency Planning Hearing only.
- B. At each hearing, provided the GAL believes the child's position furthers his or her best interests.
- C. At each hearing, as long as the child's position is well-reasoned and clear.
- ✓ D. At each hearing, unless the child directs otherwise.



# Stating Child's Position Requirements

A GAL in a D&N case shall specifically:

- Attend all court hearings and advocate for the child's best interests . . . State the child's position when ascertainable.
- If the child informs the GAL that s/he does not want the GAL to report his or her position to the court at a specific hearing, the GAL may proceed without directly stating such position.

***§ V.D.1.***

# Involvement of Children in Proceedings

When ascertaining child's position GAL shall endeavor to maximize child's involvement in proceedings when consistent with BI of child by:

- Discussing court process
- Ascertaining child's wishes regarding appearing
- Advocating for elimination of barriers to participation

Post hearing follow up regarding hearing outcome and child's experience.

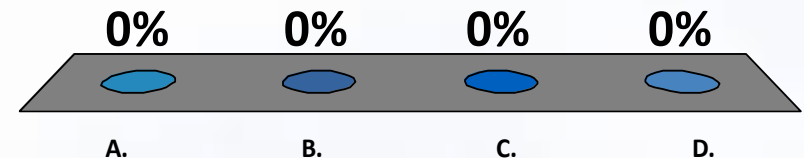
***§ V.D.1. Commentary***



# When must the initial investigative tasks set forth in V.D.4 take place?

Response  
Counter

- A. All tasks must be completed within 30 days.
- ✓ B. Visit with child within 30 days; all other tasks within 45 days.
- C. Visit with child within 30 days; all other tasks within 60 days.
- D. It depends.



# Team Scores

**Points**

**Team**

**Points**

**Team**

# Time frame for Initial Investigation

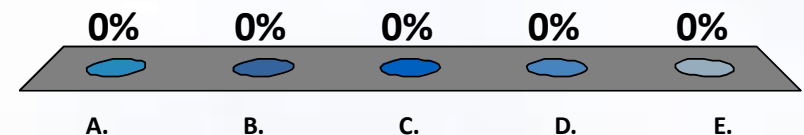
- In-placement interview with/observation of child must be performed as soon as is reasonable but in no event later than 30 days.
- 45-day timeframe for initial investigation moved from commentary to standard.

***§ V.D.4***

# Which of the following tasks may be delegated to qualified professionals working for the GAL?

Response  
Counter

- A. Meeting with placement providers.
- B. Meeting with Respondent Parents.
- C. Observing the child with Respondent Parents.
- D. Obtaining first hand information from other persons or professionals (CASA volunteers, school personnel).
- ✓ E. C & D.



## **D&N Revisions**

- Investigative activities personal to GAL include:
  - In-person meeting with child w/in 30 days
  - Observation of child with caregiver in placement
  - First-hand assessment of placement
  - Meeting with placement provider
  - Interviewing respondent parents (with consent of counsel)

***§ V.D.4***

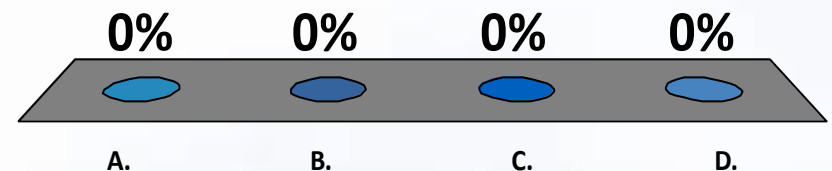
# D&N Revisions

- Investigative activities that may be performed *by qualified professional acting as agent of GAL under GAL's supervision*:
  - Meeting with proposed placement providers
  - Observation of the child's interaction with proposed placement providers
  - Observation of the child's interaction with respondent parents
  - Reviewing court files and relevant records, reports, and documents
  - Obtaining first-hand information from other persons or professionals necessary to assess and serve the child's best interests
  - Confirmation of diligent search; independent diligent search
  - Visiting home from which child was removed **§ V.D.4**

# Do I or my qualified staff need to interview school personnel within 45 days?

- ✓ A. Yes.
- B. No.
- C. Only if the child has school related issues.
- D. Only if I think school personnel will have relevant information.

Response  
Counter



# First-Hand Information Requirements

- Obtaining first-hand information from other persons or professionals necessary to assess and serve the child's best interests.
- Such persons or professionals shall include caseworkers, CASA volunteers, relatives, school personnel, therapists, treatment providers, and any other persons or professionals necessary to assess and serve the child's best interests.

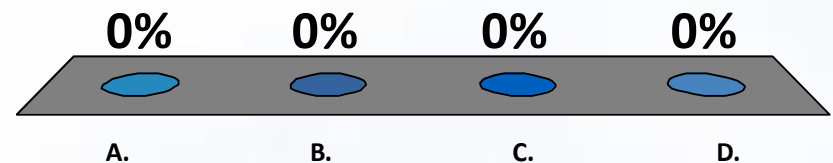
***§ V.D.4.e***



# Which of the following is not true about change of placement visits?

Response  
Counter

- A. GAL must personally perform.
- B. Rural GALs can obtain OCR approval to use qualified professional.
- ✓ C. I have 45 days to conduct the visit.
- D. A change of physical address only (child with same caregiver) triggers the visit requirement.



# Team Scores

**Points**

**Team**

**Points**

**Team**

# Change of Placement Visit

- Change of placement visit
    - Personally assigned to GAL
      - Unless change of physical address only; then other qualified professional acting as agent of GAL can visit.
      - Exception for rural GALs who can obtain OCR preapproval to use a qualified professional and follow up with a personal visit within a reasonable time.
    - As soon as reasonable but no later than 30 days after change
      - *Commentary emphasizes role of court & county in keeping GAL apprised and allows visit to occur within 30 days of notice of placement change when GAL has acted diligently but county has failed to inform GAL of placement change.*
- § V.D.5.a**

# Maintaining Contact

- Context provided to maintaining contact requirement:
  - Continue to assess child's best interests
  - Consider child's position
  - State child's position to court

***§ V.D.5.b***

# D&N Appeals

- Appellate requirements:
    - Personally file a pleadingOR
    - Formally joining another party's pleading
- § V.D.6***

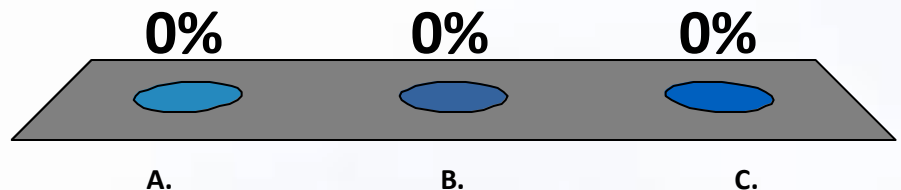


# **JUVENILE** **DELINQUENCY/DIRECT FILE**

# As GAL, do I have any obligation regarding the juvenile's due process rights?

- ✓ A. Yes.
- B. No.
- C. It depends.

Response  
Counter



# New JD/Direct File Standards

- Overall responsibility
  - Representation of the juvenile's best interests *in a manner that promotes and protects the juvenile's rights.*

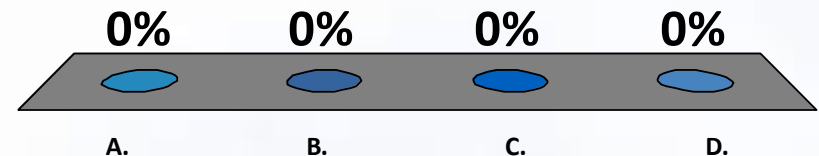
**§ V.E**



# When must I meet with the juvenile?

Response  
Counter

- ✓ A. It depends.
- B. The initial court hearing meeting is sufficient.
- C. Sometime within the first 45 days of my appointment.
- D. Within 30 days.



# Initial Out of Court Meeting with the Juvenile

- In person meeting with juvenile
  - Must be timely
    - As soon as possible for all juveniles.
    - If juvenile is in detention, GAL must make diligent efforts to meet within 7 days.
  - Must be in a location that promotes open communication between the juvenile and GAL.
  - Must include an explanation of distinction between GAL role versus defense counsel role.

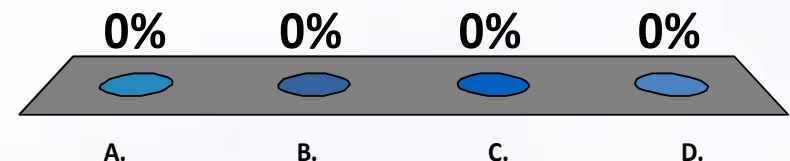
*Commentary allows flexibility in timing when GAL has already established a meaningful relationship with the juvenile in an existing appointment.*

**§ V.E.1**

# On JD appointments, the GAL does not need to attend court:

Response  
Counter

- A. When the GAL determines that doing so is not necessary to advocate for the juvenile's best interests.
- B. Whenever the court schedules a hearing that is in conflict with the GAL's calendar.
- C. In exceptional circumstances with advance approval from the court.
- ✓ D. Only if the conditions set forth in A & C are both met.



# Team Scores

**Points**

**Team**

**Points**

**Team**

# ID/Direct File Court Appearance Requirements

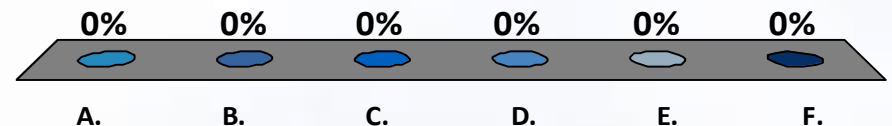
- Attendance at court hearings is required
  - Coverage allowed only in exceptional circumstances and with court permission.
  - In exceptional circumstances when GAL deems attendance is not necessary to representation of best interests, GAL may seek court approval to miss hearing. Approval must be sought prior to hearing.
- Court hearing presentation
  - Independent information relevant to juvenile's best interests.
  - Through recommendations, motions, or other means consistent with appointment orders/statutory and ethical obligations.

**§ V.E.2**

# CJD 04-06 now requires my independent investigation to include interviews with:

- A. Parents
- B. Kin
- C. School personnel
- D. Pretrial services staff
- ✓ E. a & b only
- F. None of the above

Response  
Counter



# New JD/Direct File Standards

- Independent investigation components:
  - Contact with juvenile
  - Interviews with
    - Parents
    - Kin
    - Current and potential placement providers
  - Interviews with other professionals or individuals necessary to assess and advocate for juvenile's best interests.
    - Examples include : school personnel, pretrial services staff, probation officers, and treatment providers.

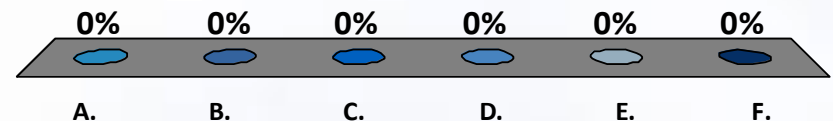
*§ V.E.3*

# CJD 04-06 now requires my independent investigation to cover the following topics:

Response  
Counter

- A. Competency
- B. Placement
- C. Services
- D. Understanding of proceeding and consequences
- E. Appointment and availability of counsel

✓ F. All of the above.





# Team Scores

**Points**

**Team**

**Points**

**Team**

# Independent Investigation

- Independent investigation ***must*** assess:
  - Juvenile's functioning, needs, and circumstances
  - Appointment and availability of defense counsel
  - Current/proposed placement
    - Due process rights
    - Applicable statutory considerations
    - Reasonable efforts to prevent out of home placement
    - Less restrictive placement options
    - Conditions of confinement/placement for out of home placements in light of juvenile's unique needs
  - Services and treatment
  - Competency issues
  - Juvenile's understanding of proceeding and immediate and long term consequences of proceeding
  - Immediate and long consequences of proposed orders/resolution of charges
  - Necessity of court orders to address family issues (including D&N investigation)
  - Other pending cases

§ V.E.3

# Independent Investigation

- Timing of independent investigation
  - As soon as possible!
  - Often sooner than 45-day time frame applicable to D&N proceedings.

***§ V.E.3***

# New JD/Direct File Standards

- Who can do the investigation/advocacy
  - GAL must personally interview juvenile and attend court
  - Other activities may be performed by qualified professional acting as agent of GAL under GAL's supervision.
- Necessary to repeat investigation if appointed on another case?
  - When GAL has already obtained relevant information ***through an existing appointment*** the GAL may tailor investigation to ensure currency of information.

**§ V.E.3**

# New JD/Direct File Standards

- Ongoing investigation/advocacy
  - Maintaining contact and ongoing communication
    - Not just in court
  - Other applicable duties listed in *§V.E.3.*

*§ V.E.4*

# **OTHER CASE TYPES**

# Other Case Types

- General duties
  - Directed by court
  - Set forth by statute
  - As required by Rules of Professional Conduct
- May require:
  - attending court hearings relevant to child; presenting relevant info
  - Personally meeting with and observing the child
  - Meeting with current and proposed placements, guardians, or custodians
  - Reviewing court files and relevant records, reports, and documents

**§ V.F**

# **BONUS BILLING QUESTIONS**



# Team Scores

**Points**

**Team**

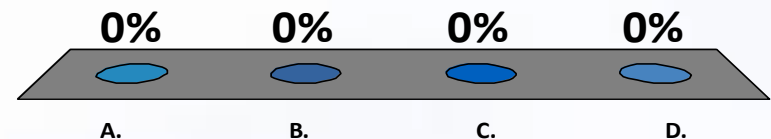
**Points**

**Team**

# A GAL and her social worker attend an introductory visit together. Who may bill for the visit?

Response  
Counter

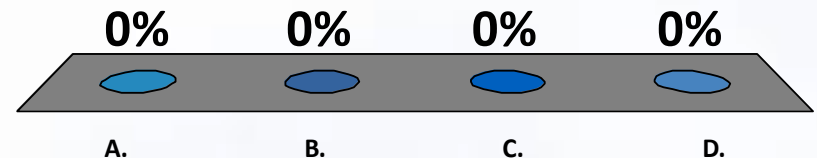
- A. The attorney only
- B. The social worker only
- ✓ C. Attorney and social worker
- D. Attorney and social worker, subject to OCR preapproval



# A social worker attends a court hearing with a GAL. Who may bill?

- ✓ A. The attorney only
- B. The social worker only
- C. Attorney and social worker
- D. Attorney and social worker, subject to OCR preapproval

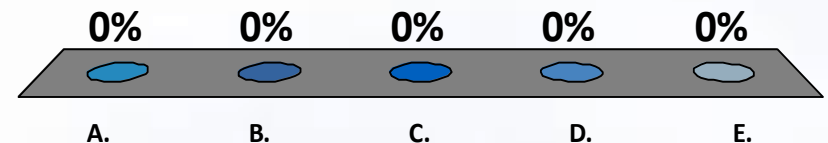
Response  
Counter



# The OCR must pay for my time and expenses when I am court-ordered to:

Response  
Counter

- A. Travel out of state for a home visit.
- B. Perform competency restoration.
- C. Engage an expert.
- D. Serve as a CLR without an indigency finding.
- ✓ E. None of the above.



# Team Scores

**Points**

**Team**

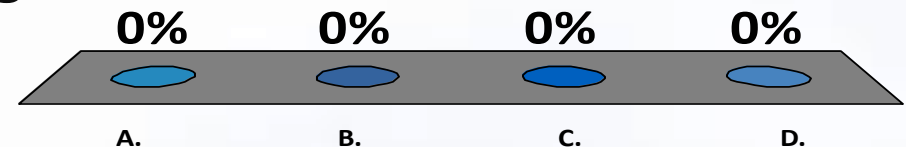
**Points**

**Team**

**While driving to court for 30 minutes in one case, GAL makes a 15-minute phone call on a different case. GAL should bill:**

Response  
Counter

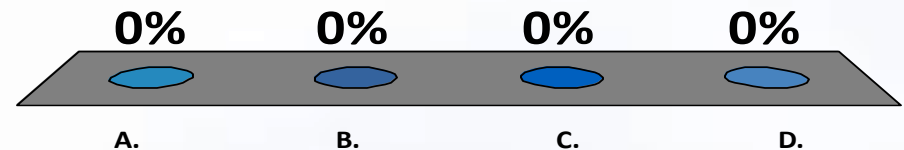
- A. 30 minutes for travel time.
- ✓ B. 15 minutes for phone call; 15 minutes for travel time.
- C. 15 minutes for phone call; 30 minutes for travel time.
- D. GALs can't bill for calls while driving.



**GAL has 9:30 hearing. GAL arrives at 9:00 and meets with parties until 9:40. Case is not called until 10. What may GAL bill as wait time?**

- A. 15 minutes
- ✓ B. 20 minutes
- C. 30 minutes
- D. 1 hour

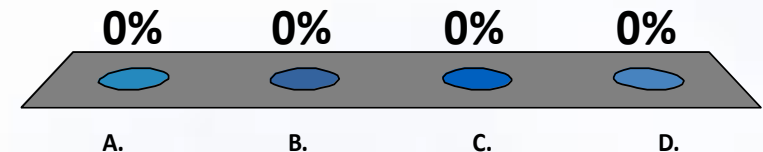
Response  
Counter



# An attorney exchanges 10 emails in order to schedule a staffing. The attorney may bill:

Response  
Counter

- ✓ A. The total amount of time reading and exchanging emails in one entry.
- B. 3 min. (0.05), the billing minimum, for each email.
- C. An estimate of what the attorney believes is fair and reasonable.
- D. None of the above.







**And the Winning Team is....**

# Final Team Scores

**Points**

**Team**

**Points**

**Team**



**QUESTIONS?**