

## CHAPTER 13 MINOR'S COUNSEL

### Rule 5.13.1

#### **Minor's Counsel**

Qualifications, appointment, rights and duties and compensation of minor's counsel are governed by Family Code sections 3150, 3151 and California Rules of Court, rules 5.240 through 5.242.

#### **A. Appointment of Counsel for Children and Compensation**

1. After the appointment of minor's counsel, the court will determine counsel's rate of compensation and the parties' financial ability to pay all or a portion of the minor's counsel's fees and expenses in accordance with the law.

2. The failure by minor's counsel to timely file the required Form FI-322, *Declaration of Counsel for a Child Regarding Qualifications*, may result in a forfeiture of fees and costs incurred prior to the filing date.

**B. Review Hearings.** The court will generally hold a review hearing every 90 days to consider both the continued appointment of minor's counsel and the parties' ability to pay. Minor's counsel shall submit a declaration and order for payment of fees on Form SDSC D-137, *Declaration and Order for Payment of Attorney Fees and Costs of Minor's Counsel*, at every "ability to pay" and/or "review" hearing or no less than every 90 days if there is no pending review hearing.

#### **C. Complaint Procedure.**

1. **Written Complaint.** A complaint regarding minor's counsel must be submitted in writing addressed to the Family Court Supervising Judge, and contain all the following information:

- a. Case name and number
- b. Name of the judicial officer assigned to the case
- c. Name of the minor's counsel
- d. Specific facts, conduct and dates regarding the alleged inadequacies or behaviors

which give rise to the complaint.

2. **Complaint Basis.** A complaint may not be based on a party or an attorney's dissatisfaction or disagreement with a court order in which minor's counsel was involved.

3. **Court Response.** The Supervising Judge has the discretion to respond to the complaint directly, to consult with other judges, or to refer the complaint to the Chairperson of the Minor's Counsel Subcommittee of the San Diego County Bar Association. If referred to the Chairperson, the Chairperson will attempt to resolve the complaint informally.

4. **Review Panel.** If the complaint cannot be resolved informally, a Review Panel will be convened to investigate the complaint and provide a written report with recommendations to the Supervising Judge. The Review Panel will include the Supervising Judge or his/her designee and two volunteer attorneys. The attorneys will have no connection to the underlying case and at least one will be a qualified minor's counsel. Based on the report, the Supervising Judge will take appropriate action.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2011; Rev. 1/1/2012; Rev. 1/1/2013; Rev. 1/1/2014)