

Lawyers & Advocates

Lawyers

Generally, administrative staff do not need to deal directly with legal counsel. If a parent engages legal counsel, the Superintendent should be informed and will likely contact legal counsel for the Board.

If the parent has given written consent for documents to be released to a lawyer, generally it is permissible to do so. The written consent should be accompanied by a letter from the lawyer outlining what is to be released. Anything that is unfamiliar or any questions that you might have about the scope of the request should be raised with your Superintendent.

When legal counsel attends meetings, generally administrative staff will also be represented by legal counsel for the Board.

Advocates

When advocates wish to access information, including documents related to a student, they should be referred to the parent for that information, which may be provided to the parent for the parent to share/disclose with the advocate.

Parents may wish to bring an advocate to a meeting. Provided that the advocate's behaviour during the meeting is appropriate, an advocate can participate in a meeting to support the parent. The parent may be required to provide explicit consent either orally or in writing for the advocate to participate; however, the parent's request and the parent's involvement in the meeting can be evidence of implicit consent for the advocate to be present. The advocate cannot assume the role of a parent and give direction to the school. The parent must still consent or provide direction. Although advocates may wish to share an opinion or information with the school, the advocate cannot be assumed to be speaking for the parent.

Some advocates may be paralegals and therefore, licensed by the Law Society to act on behalf of a parent. If this is the case, explicit consent from the parent for the paralegal to receive information should be provided in writing. All educational directions / instructions about the student should still be confirmed with the parent.

- **Office of the Children's Lawyer** IPC: *The Children's Lawyer of Ontario, PO-2006*

"The Children's Lawyer for Ontario (formerly the Official Guardian) is appointed by the Lieutenant Governor in Council, on the recommendation of the Attorney General, under section 89(1) of the *Courts of Justice Act (CJA)*. To be appointed as the Children's Lawyer, the person must be a lawyer belonging to a bar of one of the provinces or territories of Canada [*CJA*, section 89(2)].

The Children's Lawyer has a duty to act as litigation guardian for a minor who is a party to a proceeding, where required to do so by an Act or the rules of court [*CJA*, section 89(3)]. For example, in a personal injury case, the court may order that the Children's Lawyer act as litigation guardian for a minor plaintiff in the action [see rule 7.01-7.02 of the Rules of Civil Procedure, in the *CJA* regulations].

Also, at the request of a court, the Children's Lawyer may act as the legal representative of a minor who is not a party to a proceeding [*CJA*, section 89(3.1)]. For example, in a child protection case, the court may request that the Children's Lawyer act as the minor's legal representative in the proceedings [see section 38 of the *Child and Family Services Act (CFSA)*].

The Office of the Children's Lawyer (the OCL) operates as a branch of the Ministry of the Attorney General.

The OCL itself engages the services of lawyers to discharge its responsibilities. Some of these lawyers are "in-house" employees, while others work as "agents" on a retainer basis."

Principal's Best Practice: Co-operate with the OCL. Inform parents when a representative arrives at school. Seek direction from the parents about how they wish their child to interact with the OCL. Do they wish you to be present in order to comfort their child?