

NACC envisions a justice system wherein every child has his/her voice heard with the assistance of well-trained, well-resourced independent lawyers resulting in the child's rights being protected and needs being met.

A message from NACC Executive Director, Kendall Marlowe

Thank you for all you do for children and families, and for your partnership as professionals and advocates in defending children's rights and interests. I'm honored by the opportunity to support you in your work. In this chair as Executive Director since January 2, I've already come to know the enormous potential we have to improve the lives of children in this country. Let's seize this moment, for the sake of children now and generations into the future.

The National Association of Counsel for Children is the preeminent organization in the United States of child-serving attorneys and professionals, dedicated to advancing justice and well-being for children in child welfare, juvenile justice and custody systems. Through training, networking, litigation and public advocacy, our members fight for what's right for kids and work to continually improve the performance of legal and social service systems. We don't accept the status quo, and instead strive to raise the bar for how our society treats its children, both inside and outside the courtroom. We hold ourselves accountable, and insist that we

advance our professional standards for the advocacy and services that children receive.

You may have heard that this campaign, always a struggle, has been especially tough on the NACC organization itself. Borrowing from Samuel Clemens, it must be said that rumors of our demise were exaggerated. The National Association of Counsel for Children begins 2013 with a balanced budget, an active, multidisciplinary membership representing all 50 states, and exciting plans for our next national conference, this August in Atlanta. With leaner administration and responsible management, NACC will not only survive, but grow in strength.

What do we do with that power? How can our collective efforts go beyond the individual, case-by-case battles that we all face in our work? Why should there be an NACC, and why should each of us be a member? The answers are that only we can advocate for systems reform with the backing

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NACC Executive Committee 2012–2014

President	Jan Sherwood
Vice President	Gerry Glynn
Treasurer	H.D. Kirkpatrick
Secretary	Erik Pitchal
Past Chair	Bob Fellmeth

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of 1,600-plus members knowledgeable and experienced in children's issues. Only we can transcend the emotions and conflicts in any one case to create better systems for helping all kids and their families. There must be an NACC, because there must be one arena where dedicated professionals can openly debate the way forward for children in the U.S. We must be members, because only by working together will we succeed.

We are not the only organization trying to help children, and we will therefore collaborate with all comers. Each group brings different perspectives to the debate, but the borderlines of policy turf shouldn't stop us from reaching for the broader goal. NACC is uniquely qualified to bring multiple disciplines and points of view to the table, as our members and our opinions come from all across the geographical and ideological map. Let's work together, debating the issues with all of the intellect and information we can muster, and then head out into the broader conversation to get the results we know kids need.

As a community of advocates, we deserve credit for the progress that's been made in protecting the rights and interests of children in America's courtrooms. Yet we also deserve the blame for what hasn't been done. Over 400,000 children live in the child welfare system's "substitute care,"

a euphemism for government removal of children from their families, often without any real plan to provide those children with a better life. Tens of thousands of youth are detained in prison-like institutions, even though many have committed no violent crime and pose little danger to their community. In countless custody cases, life-changing decisions are made for children with little to no consideration of the children themselves. We remove, separate, institutionalize and incarcerate children at rates not seen anywhere else in the world.

Where were we, as the community of advocates for children, when these systems were built, and where are we now, when reform is so often halting and fragile? If we are to call ourselves advocates for children, we have to answer the call of duty to defend children's interests. That battle will be different in different jurisdictions, as what needs to happen for children's rights in Oregon is different than what needs to happen for kids in Georgia. So let's work together on what matters most to children in your state or county, just as you'll help your colleagues in their jurisdictions. Call me (303-864-5322) or email (Kendall.Marlowe@childrenscolorado.org) so that NACC can get you the resources you need for your advocacy. Register for the Atlanta conference, so that your voice is heard. Only we can make a better world for children, and only you can lead us there.

Kendall Marlowe

Executive Director

NACC Mission

As a multidisciplinary membership organization, we work to strengthen legal advocacy for children and families by:

- Ensuring that children and families are provided with well resourced, high quality legal advocates when their rights are at stake
- Implementing best practices by providing certification, training, education, and technical assistance to promote specialized high quality legal advocacy
- Advancing systemic improvement in child-serving agencies, institutions and court systems
- Promoting a safe and nurturing childhood through legal and policy advocacy for the rights and interests of children and families



Cases

IN RE C.M. & A.

The New Hampshire Supreme Court took up the question of whether parents in a child protection case are constitutionally entitled to court appointed counsel at the expense of the state. In June 2012, the Court held that due process does not require the appointment of counsel in every abuse/neglect case, but that the facts of a particular case may still require the appointment of counsel.⁴

The New Hampshire Division of Children, Youth and Families (DCYF) had been granted custody of two minor children due to neglect, and the parents had been represented by court appointed counsel.² During the proceedings, the state legislature amended a statute, eliminating New Hampshire's statutory right to counsel for an indigent parent alleged to have abused or neglected their child.³ Each of the two parents then filed a motion to continue court-appointed counsel in this case, and the trial court transferred the question, "Does the Due Process Clause of the New Hampshire Constitution (Part I, Articles 2 and 15) or the Fourteenth Amendment of the

1. In Re C.M. & a., 163 N.H. 768, 770 (2012).
2. *Id.* at 771.
3. *Id.*

Federal Constitution require the appointment of counsel for an indigent parent from whom the State seeks to take custody of a minor child based on allegations of neglect and abuse?"⁴

First analyzing the question under the State Constitution, the Court employed the *Mathews v. Eldridge* three-prong test, balancing (1) the private interest affected by the official action, (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, and (3) the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.⁵ The parents argued that without counsel, the adjudicatory hearing created the risk of erroneous deprivation of their protected liberty interest in raising and caring for their children because of the low preponderance of the evidence standard, the difficulty for parents in understanding and contesting expert testimony, and the risks of common use of hearsay evidence.⁶ The Court nonetheless stated that, "the procedural protections embodied in the statute prevent the risk that an uncounseled parent will be erroneously deprived of the care and custody of his or her child," and that the State's *parens patriae* role means that, "the State shares with the parents a desire for a correct result."⁷ The Court held that due process does not require a *per se* right to appointed counsel in abuse/neglect cases under New Hampshire law, and that the Federal Constitution offers no greater protection and therefore calls for the same result.⁸

4. *Id.* at 770.
5. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
6. In Re C.M. & a., 163 N.H. 768, 774 (2012).
7. *Id.* at 777.
8. *Id.* at 778.

The Court then held that in particular cases, due process may still require the appointment of counsel to address the risk of erroneous deprivation of a parent's protected liberty interest, to be determined on a case-by-case basis by the trial court.⁹ The dissent argued that this case-by-case approach was not viable, as courts cannot accurately determine in advance the difference that legal representation may make, and that representation of indigent parents is ultimately more efficient, promoting both financial and judicial economy.¹⁰

[View case details](#)

9. *Id.* at 777.
10. *Id.* at 789.

NOTICE TO READERS : Decisions reported herein may not be final. Case history should always be checked before relying on a case. Cases and other material reported are intended for educational purposes and should not be considered legal advice. Featured cases are identified by NACC staff and our members. We encourage all readers to submit cases. If you are unable to obtain the full text of a case, please contact the NACC and we will be happy to furnish NACC members with a copy at no charge.

Do you know
of an important
case which you
feel NACC members
should be made
aware of?



If so, please let us know. Email:
advocate@childrenscolorado.org.



Policy & News

Congress passed “An Act to Protect our Kids”

The legislation creates a new, two-year national commission to develop a wide-ranging strategy for ending the upwards of 2500 child abuse and neglect deaths a year.

› [Read the full act](#)

Juvenile-Justice Corrections Program Allows Youths to Train Dogs

A new program in Texas allows girls to benefit from one-of-a-kind project.

› [Read news report](#)

Expanded Access to College Financial Aid for Former Foster Youth

A new federal law removes a financial disincentive to adopting teens in foster care.

› [Learn more](#)

The USSC Granted Review in a South Carolina ICWA Case

NACC joined in an amicus brief in support of granting review.

› [Learn more](#)

Electronic Information Exchange: Elements that Matter for Children in Foster Care

A New policy brief titled “Electronic Information Exchange: Elements that Matter for Children in Foster Care”, has been co-released by SPARC and The Children’s Partnership.

› [View brief](#)

Congress Passed the Uninterrupted Scholars Act

This makes a simple change to FERPA to allow schools to share information with child welfare workers.

› [Learn more](#)

TRAINING CALENDAR

Webinar: Wednesday, Feb 13, 2013
3:00–5:00pm ET

› [Learning & Living the NCWWI Leadership Model](#)

Participants from NCWWI’s Leadership Academy for Middle Managers (LAMM), Leadership Academy for Supervisors (LAS) and Traineeship projects (TRN) will share their personal perspectives and leadership lessons, as well as how their experience has impacted the implementation of their systems change projects.

February 24–27, 2013 · San Antonio, TX

› [Judicial Institute: Family Law](#)

This conference will provide the most current information and tools to family and domestic relations judges to improve case processing and outcomes for children, youth, families, victims.

April 14–17, 2013 · Washington, DC

› [Making Children and Families a Priority: Raising the Bar](#)

The theme for the conference is based on the CWLA Standards of Excellence National Blueprint.

September 15–18, 2013 · Dublin, Ireland

› [Thirteenth European Regional Conference on Child Abuse & Neglect](#)

The goal of this conference is to support individuals and organizations working to protect children from abuse and neglect worldwide.

Child Welfare Law Certification



If you represent children, parents, or the state child welfare agency you may be eligible to become certified in child welfare law. The NACC certification program is accredited by the ABA and has been endorsed by the National Council of Juvenile and Family Court Judges, the Conference of Chief Justices, and the Conference of State Court Administrators.

Certification gives you the recognition as an expert and will help you negotiate better pay for your services.

NACC Child Welfare Law Certification is available to attorneys who serve in the role of Child's Attorney (including Guardian ad Litem, Law Guardian, Attorney ad Litem), Parent's Attorney, and Agency / Department / Government Attorney. The specialization area as approved by the ABA is defined as "the practice of law representing children, parents or the government in all custody, adjudication, disposition, foster care, permanency planning, termination, guardianship, and adoption. Child Welfare Law does not include representation in private child custody and adoption disputes where the state is not a party."

Certification Preparation

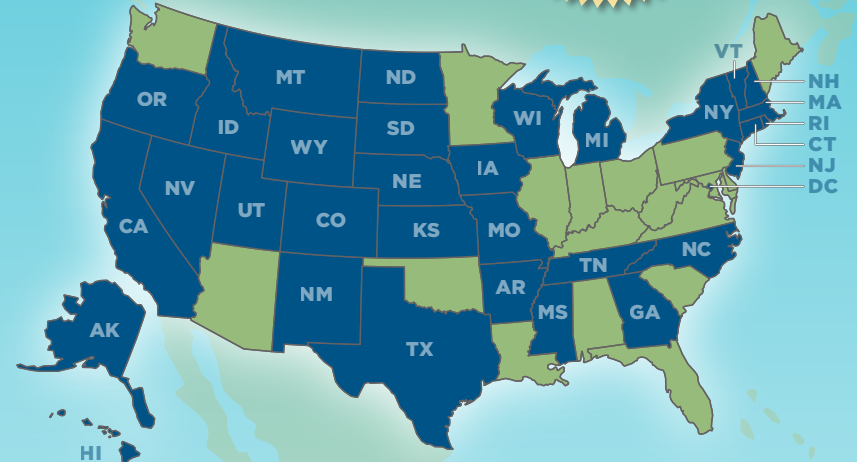
Your legal education, practice experience, and continuing legal education in child welfare, delinquency, family law, and related areas all help prepare you for the certification exam. Upon submitting a Certification Application, you will also receive a copy of the *Child Welfare Law and Practice* (Red Book).

Apply to be certified for free!

NACC has received funding from the U.S. Department of Health and Human Services to pay the application fee for up to 200 applicants for certification. This funding comes through HHS' Children's Bureau. We are now open in 34 jurisdictions and have more than 470 Child Welfare Law Specialists (CWLS). The waivers are available on a first-come, first-serve basis through September 30, 2013. Applying takes about 20 minutes and applicants then have two years to complete all components including the exam.

Eligibility at a Glance

- 3+ years practicing law
- 30% or more of the last 3 years involved in child welfare law
- 36 hours CLE/3 years (45 hours/3 years CA only) in courses relevant to child welfare law
- A writing sample demonstrating legal analysis in the field of child welfare law drafted in the last 3 years (court memo, motion, brief, article, etc.)
- Substantial Involvement Waivers are available for judicial officers, professors, and policy/supervising attorneys



If you meet these basic requirements, we would love to have you apply while we have funding from Children's Bureau to pay for your \$300 application fee!

To apply or for more information, please visit our Certification page at

www.naccchildlaw.org

or contact Daniel Trujillo, 303-864-5359, or Daniel.Trujillo@childrenscolorado.org

Congratulation 2012 CWLS



ARKANSAS

Amy Jo Freedman

CALIFORNIA

Berta Elaine Atkinson

Emily Kerry Berger

Debra Jean Bernard

Tahra C. Broderson

Andrew M. Cain

Jennifer Anne Capozzo

Mary M. Feldman

Nickolaus Charles Knight

Allen J. Korenstein

Jamila Teri Lindsey-Purnell

Christina Anne Milburn

Andrea D. Nguyen

Kelly Virginia Parker

Jessica Lee Paulson-Duffy

Kelly Xi Huei Lalith
Ranasinghe

Rachel Monique Raymond

Lori Beth Schroeder

Ryan Michael Sheets

Peggy A. Stone

Robert L. Waring

Ellen Bacon Wiley

Jenny Jae Yu

Christine K. Zebley

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Catherine Jane Cheroutes

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Melody Zeigler Ellis

Wendy McLean Furey

Hon. Cassandra Kirk

Juliet Kristi Lovelace

Willie Jake Lovett

Lorie Ann Moss

Cynthia Elaine Roberts-Emory

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Stephany Lynn Zaic

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Cristie Mae Roach

Sharon S. Sipes

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Jeannine Pappas Timothy

VERMONT

Pamela Alison Marsh

Kathryn Aring Piper

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Danuta E. Kurczewski

WYOMING

John D. Chambers

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Dona Playton

Donna Marie Sheen

Cynthia Karen Sweet

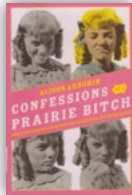
Cindi Wood



Professional Resources

PUBLICATIONS

You now have the opportunity to purchase publications from the NACC Official Bookseller: [Bookworks](#). Available publications include:



[Confessions of a Prairie Bitch: How I Survived Nellie Oleson and Learned to Love Being Hated](#)

By Alison Arngrim

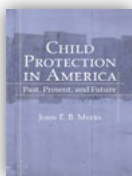
Paperback \$14.99

ISBN-13: 9780061962158

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: It Books, 06/2011

[Other editions of this title](#)



[Child Protection in America: Past, Present, and Future](#)

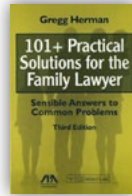
By John E. B. Myers

Google EBook \$39.95

ISBN-13: 9780195169355

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Oxford University Press, 07/2006



[101+ Practical Solutions for the Family Lawyer: Sensible Answers to Common Problems](#)

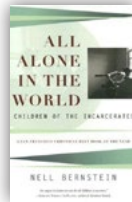
By Gregg Herman

Paperback \$139.95 (includes CD-ROM)

ISBN-13: 9781604425079

Availability: Special Order; Price and Availability May Change

Published: American Bar Association, 05/2011



[All Alone in the World: Children of the Incarcerated](#)

By Nell Bernstein

Paperback \$16.95

ISBN-13: 9781595581853

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: New Press, 08/2007



[The APSAC Handbook on Child Maltreatment](#)

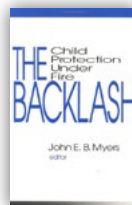
By John E. B. Myers, John E. B. Myers, APSAC (American Professional Society on the Abuse of Children)

Paperback \$120.90

ISBN-13: 9781412966818

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Sage Publications (CA), 06/2010



[The Backlash: Child Protection Under Fire](#)

By John E. B. Myers

Paperback \$65.00

ISBN-13: 9780803954045

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Sage Publications (CA), 07/1994



[Child Maltreatment: A Collection of Readings](#)

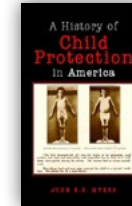
By John E. B. Myers

Paperback \$46.80

ISBN-13: 9781412995061

Availability: Special Order; Price and Availability May Change

Published: Sage Publications (CA), 05/2011



[A History of Child Protection in America](#)

By John E. B. Myers

Paperback \$24.99

ISBN-13: 9781413423013

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Xlibris Corporation, 05/2004



[Legal Issues in Child Abuse and Neglect Practice](#)

By John E. B. Myers

Paperback \$128.75

ISBN-13: 9780761916666

Availability: In Stock at Warehouse; Usually Ships in 1–5 Days

Published: Sage Publications (CA), 07/1998

[Other Editions of this title](#)

And, available from Bradford Publishing



[Child Welfare Law and Practice, 2nd Edition](#)

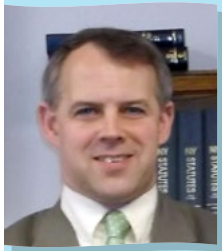
Donald N. Duquette and Ann M. Haralambie, General Editors

Item No: BK1070-2

Price: \$89.00

Member Feature

Newly Certified CWLS, Dan Martindale



"The case that I had that truly affected me was an abusive head trauma case approximately 6 years ago involving a then two-month-old infant. It is one of two cases that kept me awake at night. After nearly two years, the parent was successfully prosecuted, the child was adopted by her foster family, and is now flourishing. It was a case that really struck me as to just how vulnerable children truly are."

Dan Martindale began his career in private practice in 1997. After eight years, the opportunity presented itself to become a prosecutor.

Dan became the Deputy County Attorney for Washington County, New York in March 2005. Currently, he represents all 27 county agencies, with his main duties involving the prosecution of child abuse/neglect matters, as well as juvenile prosecution.

Dan is licensed in both New York and New Jersey, as well as the Federal District Courts and the Supreme Court of the United States. He has a BA from Syracuse University and a JD from the University of Dayton School of Law.

He currently serves as the President of the Bi-County Child Advocacy Center Board of Directors, Vice-President of Bi-County

ARC, and a board member of the Board of Governors of New York State organization.

He is a past President of the Washington County Bar Association and has been certified as a juvenile prosecutor by the National District Attorney's Association. In addition, Dan is a founding member of both the Washington County's Family Treatment Court and the Juvenile Fire Education Team.

His wife has been a child abuse prosecutor for 16 years as an assistant district attorney, the last eight of which has been as First Assistant. Dan has two children, a ten-year-old daughter, and an eight-year-old son.

Dan is a newly certified Child Welfare Law Specialist, and all of us at NACC welcome him!

e-Guardian Member Feature

NACC is looking for nominations of outstanding advocates, so we can highlight them in eGuardian.

Do you know someone who does an outstanding job and deserves to be recognized?

Send an email with their basic information and why you're nominating them to Taylor Stockdell at taylor.stockdell@childrenscolorado.org.

