Performance Standard 10.2 - ~~Plea~~ Negotiations ~~Negotiation~~

A. In order to develop an overall negotiation plan, counsel should be aware of, and make sure the client is aware of:

1. the possible dispositions the court may order if the child is found to be delinquent or unruly, including placement on probation, commitment to the custody of the division of juvenile services or another state department; and payment of a fine or restitution;
2. the possibility of transfer to district court;
3. other consequences of ~~conviction~~ disposition including but not limited to deportation of the child or family members, ineligibility of the child or family members for various government programs, the prohibition from carrying a firearm, the suspension of a motor vehicle operator's license, ~~sex~~ offender registration requirements; and
4. the possible and likely place and manner of confinement.

B. In developing a negotiation strategy, counsel should be completely familiar with concessions that the client might offer the prosecution as part of a negotiated settlement, including, but not limited to:

1. not to proceed to hearing on merits of the allegations in the petition;
2. to decline from asserting or litigating any particular prehearing motions;
3. an agreement to fulfill specified restitution conditions and/or participation in community work or service programs, or in rehabilitation or other programs; and
4. providing the prosecution with assistance in prosecuting or investigating the present case or other alleged unruly, delinquent or criminal activity.

C. In developing a negotiation strategy, counsel should be completely familiar with benefits the client might obtain from a negotiated settlement, including, but not limited to an agreement:

1. to dismiss or reduce one or more of the petitioned offenses; that the juvenile client will not be subject to further investigation or prosecution for uncharged alleged unruly or delinquent conduct;
2. that the juvenile client will receive, with the agreement of the court, a specified disposition;
3. that the prosecution will take, or refrain from taking, at the time of disposition, a specified position with respect to the disposition to be imposed by the court;
4. that the prosecution will not present, at the time of disposition, certain information; and
5. that the juvenile client will receive, or the prosecution will recommend, specific benefits concerning the juvenile client's place and/or manner of confinement.

D. In developing a negotiation strategy, counsel should be completely familiar with the position of any alleged victim with respect to disposition. In this regard, counsel should:

1. consider whether interviewing the alleged victim or victims is appropriate and if so, who is the best person to do so and under what circumstances;
2. consider to what extent the alleged victim or victims might be involved in the ~~plea~~ negotiations;
3. be familiar with any rights afforded the alleged victim or victims under North Dakota law; and
4. be familiar with the practice of the prosecutor and/or victim-witness advocate working with the prosecutor and to what extent, if any, they defer to the wishes of the alleged victim.

E. In conducting ~~plea~~ negotiations, counsel should attempt to become familiar with the practices and policies of the particular jurisdiction, judge and prosecuting authority, and probation department which may affect the content and likely results of negotiated ~~plea bargains.~~ dispositions.

Adapted from: ND Commission on Legal Counsel for Indigents Minimum Attorney Performance Standards - Criminal Matters, Performance Standard 10.2.

~~*See also: NDCC 12.1-32-15 (Offenders against children and sexual offenders Sexually violent predators - Registration Requirement - Penalty); Ch. 12.1-34 (Fair Treatment of Victims and Witnesses); id. Ch. 12.1-35 (Child Victim and Witness Fair Treatment Standards); u. 27-20-31 (Disposition of delinquent child); id. 27-20-31.1 (Delinquent children — Suspension of driving privileges); u. 27-20-31.2 (Restitution); u. 27-20-32 (Disposition of unruly child); id. 62.1-02-01 (Persons who are not to possess firearms Penalty).*~~