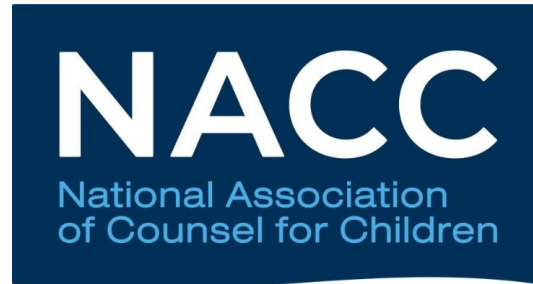


Utilizing Title IV-E Funding to Support High-Quality Legal Representation and Promote Child and Family Wellbeing



Jey Rajaraman

ABA Center on Children and the Law

Natalece Washington, CWLS

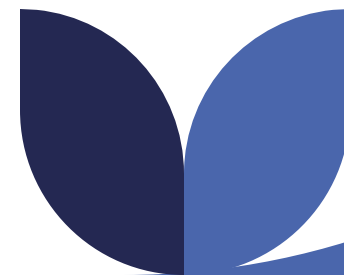
National Association of Counsel for Children

Presentation Roadmap

Fundamentals of High-Quality Legal Representation

Maximizing Title IV-E Funding

Overcoming Obstacles



Children's Bureau 2017 Information Memorandum “High Quality Legal Representation for All Parties in Child Welfare Proceedings”

“The Children’s Bureau (CB) strongly encourages all child welfare agencies and jurisdictions (including, state and county courts, administrative offices of the court, and Court Improvement Programs) to work together to ensure that high quality legal representation is provided **to all parties in all stages** of child welfare proceedings” to help ensure **“a well-functioning child welfare system.”**

Why children and parents need high-quality counsel



Access to justice



Enhanced quality of court proceedings



Better outcomes



System accountability

ABA Family Integrity Policy 118

Adopted August 2019



- Recognizes children and parents have legal rights to family integrity and family unity;
- Urges legal professionals, courts, and relevant state agencies to mitigate the trauma and long-term harm that can result from separation from parents and other primary caregivers;
- Supports the use of prevention services, including legal services, to ensure children's safety without the need for removal from a parent or caregiver;

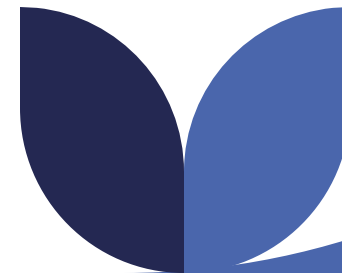
Poverty and Child Welfare

Families living below the poverty line are 22 times more likely to be involved with the child welfare system than families living above the poverty line.

In 2018, “neglect” was listed as the reason for removal in 62% of child welfare removals.

In 2017, while Black/African American children comprised about 14% of the child population, this racial group comprised over 25% of the population of children in poverty.

Two of the most common poverty-related issues that lead to child welfare removals are housing instability and difficulty accessing financial resources and welfare programs



Let's consider our results . . .



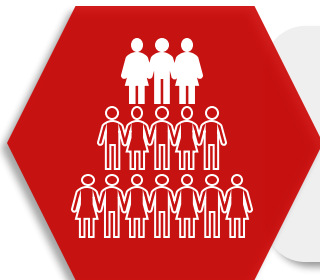
50%

of black children will be subjected to a CPS investigation by age 18.



1/3

of all children will be subjected to a CPS investigation by age 18.



83%

of all CPS investigations are unsubstantiated.

How policymakers can promote and sustain high-quality legal services

Centralize

Centralize legal representation, that includes multi-disciplinary legal team


Ensure

Ensure:

- Early and continuous appointment
- Mandatory training/specialization
- Practice standards
- Reasonable caseloads
- Fair and competitive compensation
- Oversight and accountability

Steward

Steward responsible financing



IM-17-02

High Quality Legal Representation for All Parties in Child Welfare Proceedings

Publication Date: January 17, 2017

This Information Memorandum (IM) encourages all child welfare agencies, courts, administrative offices of the courts, and Court Improvement Programs to work together to ensure parents, children and youth, and child welfare agencies, receive high quality legal representation at all stages of child welfare proceedings.

IM-19-03

Engaging, empowering, and utilizing family and youth voice in all aspects of child welfare to drive case planning and system improvement.

Publication Date: August 1, 2019

The purpose of this Information Memorandum (IM) is to demonstrate that family and youth voice are critical to a well-functioning child welfare system and to strongly encourage all public child welfare agencies, dependency courts, and Court Improvement Programs to work together to ensure that family and youth voice are central in child welfare program planning and improvement efforts.

Competent Legal Representation

- Highly specialized field requires specialized knowledge
- Lawyers greatly impact the rights and futures of their clients.
- Duty of competence requires pre-appointment training before their first court appointment, and frequent, ongoing learning

<https://familyjusticeinitiative.org/wp-content/uploads/sites/48/2020/03/fji-implementation-guide-attribute5-1.pdf>

<https://www.ncjfcj.org/wp-content/uploads/2016/05/NCJFCJ-Enhanced-Resource-Guidelines-05-2016.pdf>

<https://naccchildlaw.org/wp-content/uploads/2024/01/NACC-Recommendations-Final.pdf>

Early and Continuous Legal Representation

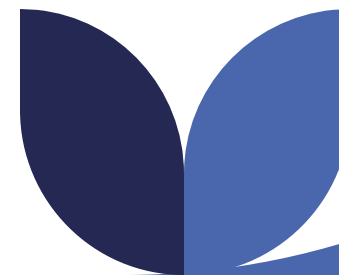
- Strengthens the attorney-client relationship fostering client trust
- Enhances the attorney's knowledge of the case history
- Improves the attorney's advocacy strategies.

<https://familyjusticeinitiative.org/wp-content/uploads/sites/48/2020/03/fji-implementation-guide-attribute4-1.pdf>

https://www.americanbar.org/content/dam/aba/administrative/child_law/repstandwhole.pdf

<https://www.ncjfcj.org/wp-content/uploads/2016/05/NCJFCJ-Enhanced-Resource-Guidelines-05-2016.pdf>

“[C]hildren and youth should have party status in their own cases and enjoy access to effective assistance of counsel at all stages of child welfare proceedings, from initiation through final appeal.”
NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings



Multidisciplinary Legal Representation

- Dependency proceedings are unique and complex
- Multidisciplinary representation is the best way to deliver high-quality representation
- Teams commonly include attorneys, social workers, and parent mentors/advocates.

<https://familyjusticeinitiative.org/wp-content/uploads/sites/48/2020/03/fji-implementation-guide-attribute2-2.pdf>

<https://naccchildlaw.org/wp-content/uploads/2024/01/NACC-Recommendations-Final.pdf>

Key Findings on the Impact of High- Quality Legal Representation

Prevents the need for removal;

Expedites timelines to permanency (reunification, guardianship, and adoption);

Decreases placement changes and unnecessary school moves

Promotes engagement in case planning, services, and court hearings;

Supports more frequent and timely family visitation and increased rates of kinship placements;

Yields cost savings for government agencies due to reductions of time youth spend in care.

Facilitates better judicial decision-making.

Federal IV-E Reimbursement for Legal Representation for Parents and Children

- Since 2019, states able to claim federal matching funds through Title IV-E of the Social Security Act
- States can seek IV-E funds to reimburse half the costs of attorneys for IV-E eligible children and their parents **AND**- multi-disciplinary teams and office overhead
- To receive the matching funds, the program providing representation must enter into an MOU with the state agency administering the Title IV-E plan.



Title IV-E Financing Math 101

Quarterly Cost of Children &
Parents Legal Representation

X

54% North Dakota Title IV-E
Penetration Rate (FY'22)

X

50% Title IV-E admin rate
reimbursement

Sample:

\$1000 state dollars

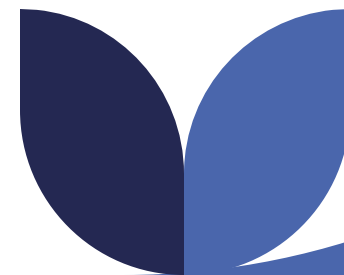
X.54 X.5 =

\$270 federal dollars

75%
match for
training
costs

Essential Conditions: Cross-Sector Leadership

In a survey respondents from states drawing down Title IV-E reported *that the most commonly identified essential condition for success was court, agency, and attorney leadership and commitment*. Second was existing multi-disciplinary efforts and guidance from the Children's Bureau.



How Might Title IV-E Funding Elevate the Quality of Legal Representation?



Hiring to ensure reasonable caseloads



Elevating salaries to attract and retain top talent



Promoting multi-disciplinary models of practice



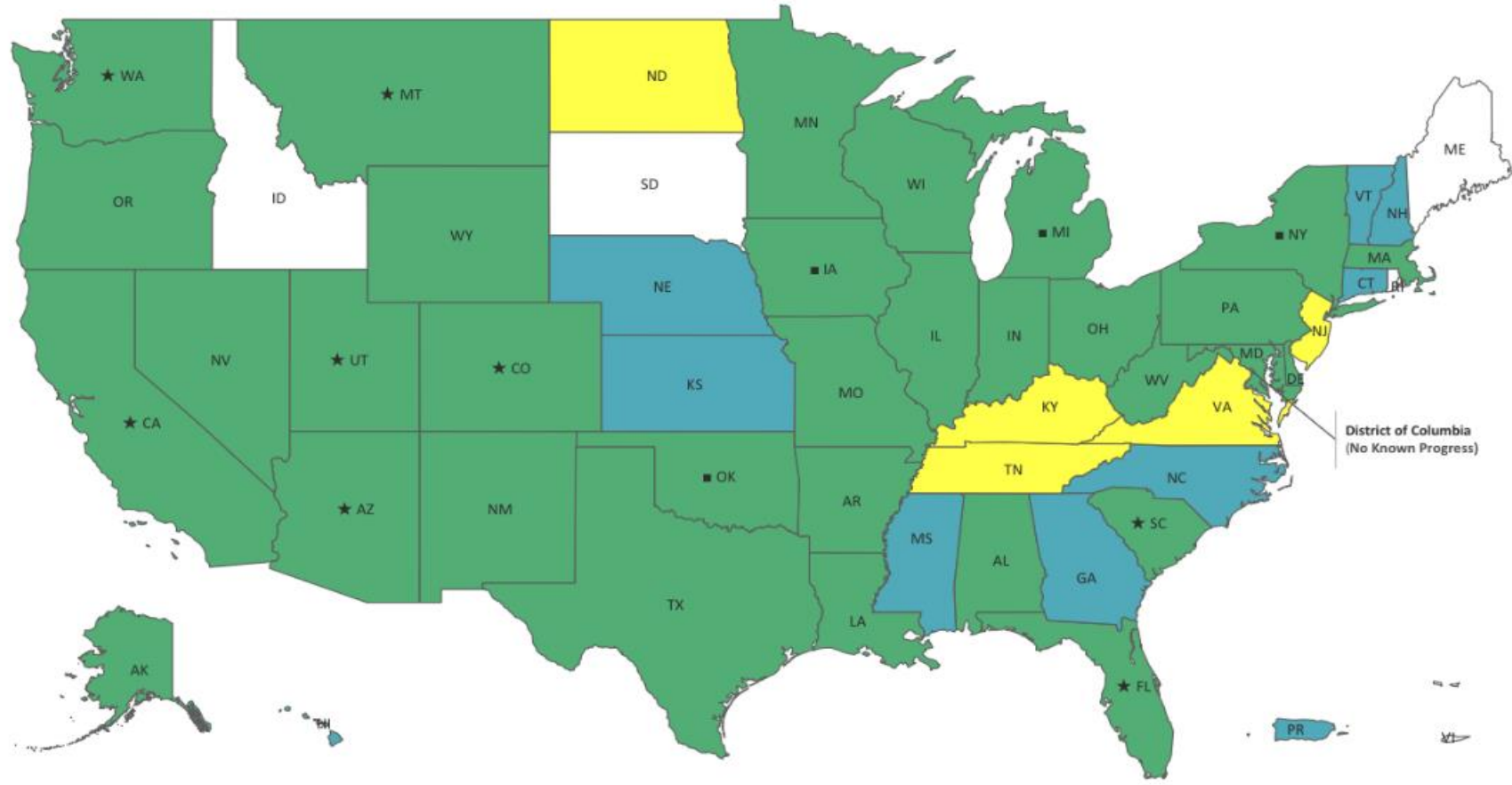
Building in assurances of quality, e.g. certification



Expanding representation to all stages of the process



Claiming IV-E Funds for Attorneys for Children & Parents



Tribes Receiving IV-E

- Eastern Band of Cherokee
- Keweenaw Bay Indian
- Navajo Nation
- Penobscot Nation
- Salt River Tribe

Progress (as of 12/22/22)

- No Known Progress
- TA Requested
- In Process
- At least 1 site in the state is receiving funds; could also mean state-wide participation

Funds used to improve:

- ★ Child and Parent Representation
- Parent Representation

Disclaimer: This map is based on information from child welfare and judicial organizations. It may not reflect all available information.

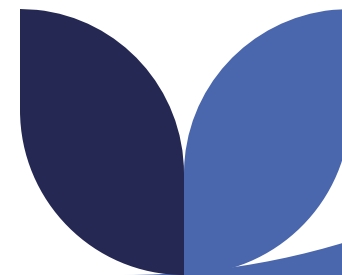
Biden Administration “Package” (Announced 9/27/23)

3 reforms, all within C.F.R.

- Regulatory, not statutory
- Not legally or technically linked (but philosophically a “package”)

They are:

- Kinship Licensing Reg (final rule)
- LGBTQ+ NPRM (proposed rule)
- Legal Rep. NPRM (proposed rule)

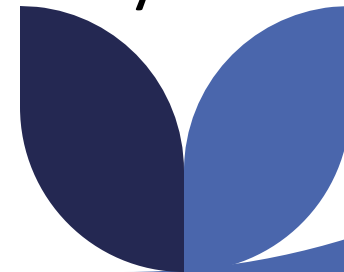


Legal Rep. Proposed Rule

The NPRM codifies and expands the opportunity for Title IV-E funding for legal representation

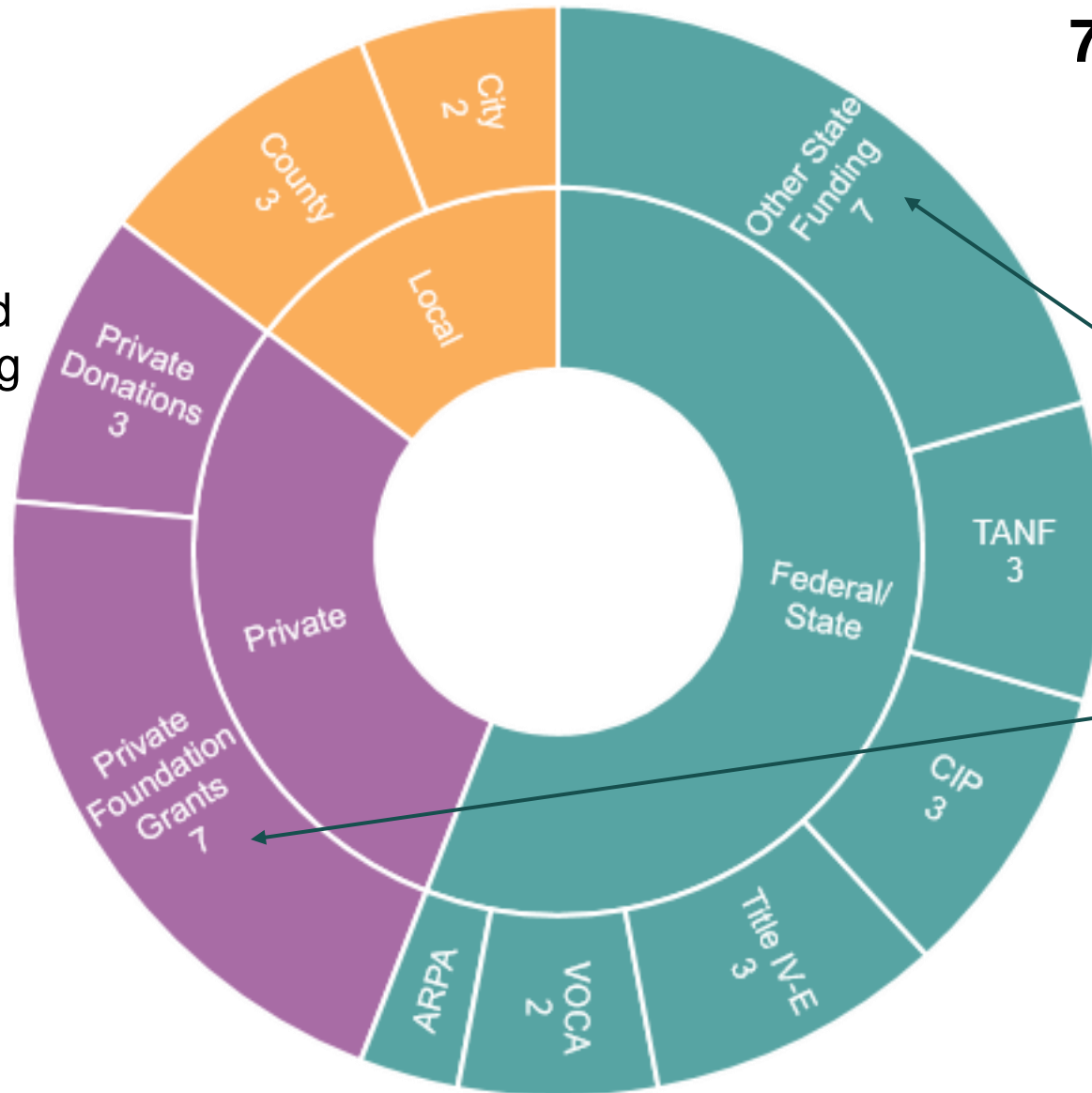
Codifies existing funding since January 2019

- Independent legal representation for children and parents
- Multidisciplinary models



Common Funding Sources

In October of 2022, we surveyed 30 existing and emerging PLA programs participating in the national PLA Cohort. These programs reported funding from the following sources:



70% of these programs rely on more than 1 funding source.

Based on this survey, State funding and private foundation grants remain the most common funding sources for PLA services.



State Administered Civil Legal Aid Federal Funding Opportunities

- Temporary Assistance for Needy Families
- The Victims of Crime Act (VOCA) Victim Assistance Formula Grants
- Social Services Block Grants
- State Opioid Response Grants
- STOP (Services, Training, Officers, and Prosecutors)
- Violence Against Women Formula Grant
- Substance Abuse Prevention and Treatment Block Grant
- Community Mental Health Services Block Grant

Existing challenges in North Dakota

- No mandatory training or standards of practice for attorneys
- Ambiguous statutory terminology
“sufficient age and competency”
- Attorney shortages
- Early termination of legal representation
- Limited use of multidisciplinary teams
- No access of Title IV-E dollars



HQLR Systems Change Roadmap

1

Planning

Collaboration between diverse stakeholders and policy makers

2

Partnering

Authentic and intentional engagement of people with lived experience in the system to guide policy discussions

3

Design

Develop policies that ensure high quality legal representation

4

Strategy

Use legislative task force or interim study committees to help legislators understand issues and facilitate efforts to pass legislation

5

Launch

Fund and deploy policy reforms that align with nationally recognized, evidence-based best practices with stakeholder buy-in

Resources

Federal NPRM:

<https://www.federalregister.gov/documents/2023/09/28/2023-20932/foster-care-legal-representation>

ABA Summary:

https://www.americanbar.org/content/dam/aba/administrative/child_law/nprm-aba-summary-2023.pdf

Template Comment:

<https://link.edgepilot.com/s/9869b081/cvDK2FMI3E6yPNnzCi2bcQ?u=https://docs.google.com/document/d/1he1GGMQkAT7tAZb9sKbkRTO4QTNSInwXj1Sf1KiCZAM/edit?usp=sharing>.

Thank you

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