



Making the Legal System Work for Children and Parents

Implementing FJI System Attributes

Attribute 3: Diversity and Inclusion/Cultural Humility

This guide is one in a series providing guidance on implementing the six system attributes in the [FJI Attributes of High-Quality Legal Representation](#). View the other [implementation guides](#).

Attribute 3: Diversity and Inclusion/Cultural Humility

- Ensure system provides attorney training around bias and cultural humility, including how racial, cultural, social, and economic differences may impact the attorney/client relationship, how personal and systemic bias may influence child welfare system decision making, and how attorneys can mitigate the negative impact of personal and systemic bias on clients' case goals.
- Ensure attorney supervision and oversight includes an opportunity for attorneys to reflect on bias and cultural humility and to evaluate impact of attorneys' personal bias on representation.
- Develop and implement a strategy to create a diverse attorney and staff workforce that mirrors the cultural, racial, and socioeconomic background of clients and communities served and which includes meaningful professional advancement and leadership opportunities.

Meeting This Attribute

Understand how racial and ethnic disparities and bias affect the child welfare system and legal profession.

It is well-documented that certain racial and ethnic minorities are overrepresented in the child welfare system, including African American and Native American families, and that racial disparities occur at various decision points throughout the child welfare process.¹ For example, a number of studies show African American infants are more likely to have an allegation of abuse or neglect substantiated, spend more time in foster care, and are less likely to reunify with family.² Some studies point to individual bias as a contributing factor to disproportionality and disparate treatment of children of color in the child welfare system.³ Additionally, families experiencing poverty are more likely to be child welfare involved

and poverty is a risk factor for child maltreatment.⁴

Unfortunately, lack of diversity (race, class, and ethnic diversity) in the legal profession, and particularly in the child welfare field, may exacerbate these issues. The legal profession is majority white,⁵ and due to the high cost of law school, fewer students from low-income or working-class families are able to join the profession⁶ or choose a career in public interest law. Lawyers have a responsibility to protect their clients from biased decision making, but how can they do that if they do not recognize bias or if their own decisions and representation are influenced by bias?⁷

Legal representation systems can help address biased decision making in child welfare by supporting attorneys to:

1. Become aware of their own biases;

2. Raise consciousness—be aware of how bias impacts clients’ experience with the child welfare system and be prepared to advocate for individualized and unbiased assessments of clients’ strengths and needs;
3. Deliberate, reflect, and educate—reflect on the reasoning of decisions to ensure bias is not impacting legal representation;
4. Change perspectives—view systems through the perspective of the client; and
5. Welcome and embrace diversity among practitioners.⁸

Prepare attorneys to practice cultural humility.

One way to combat potential attorney bias and to prepare attorneys to identify and correct systemic bias is to educate attorneys and staff to practice cultural humility. Cultural humility is “a process of self-reflection and discovery” that challenges individuals to not only learn about other people’s culture, but to critically examine their “own beliefs and cultural identities.”⁹ In contrast to a class or training program that teaches participants about different cultures (i.e., cultural competence), cultural humility is a “commitment and active engagement . . . in a process that individuals enter into on an ongoing basis” with clients, colleagues, and themselves.¹⁰ Cultural humility recognizes that culture is dynamic and changing and encourages individuals to recognize and examine their own culture, beliefs, and values to help them better understand, work with, and serve others.

Provide training on diversity, inclusion, and cultural humility.

Training around system bias can help reduce racial disparities in child welfare cases and outcomes. For example, a Texas child welfare agency took the following steps to reduce racial disparities: (1) conducted leadership development with child welfare agency staff and community stakeholders; (2) engaged with the community, recognizing the strength of the community and their ideas; and (3) trained and coached child welfare staff in antiracist principles, including [Undoing Racism](#) workshops. Researchers noted overall reductions in disparity rates as a result of the Texas initiatives.¹¹

To address poverty and its influence on child welfare

involvement, some systems of legal representation have focused on helping legal service providers and child welfare professionals communicate and work across class boundaries.¹² Ongoing efforts like this can help attorneys recognize and address their own biases and understand and fight against system biases that are damaging to clients.

Build a diverse and inclusive organizational culture.

Systems should recruit, retain, and promote a diverse staff. Developing an inclusive organizational culture involves: (1) building a workforce and organizational leadership comprised of individuals from different racial backgrounds; (2) creating an organizational culture and environment where everyone is comfortable sharing their lived experiences and talking about race and inequality; and (3) focusing on systems change both in and outside the organization, as part of the organization’s ongoing work.¹³

Leadership can move organizations toward a culture that promotes race equity through a combination of beliefs, behaviors, policies, and use of data.¹⁴ Organizational leaders can, for example, evaluate hiring practices and identify recruiting factors that ignore system inequalities (e.g., requiring or prioritizing internship experience over paid work experience), and ensure salary disparities do not exist across race, gender, or other identities by conducting regular compensation audits.¹⁵ Diversity and inclusion in the workplace is consistently associated with better overall decision making and outcomes.¹⁶

Work to eliminate unjust system involvement based on race and class.

Attorneys and legal system leaders should advocate for systems change to decrease the overrepresentation of children of color in the child welfare system. For example, in Nassau County, New York, the child welfare system implemented “blind” removal meetings in addition to trainings about racial bias, to reduce the disproportionately high percentage of African American children in their child welfare system.¹⁷ In “blind” removals, all demographic information about race and ethnicity, including names and addresses, are removed from files and notes before removal decisions are approved by child welfare agency superiors.¹⁸ Before implementing this practice, 55% of all removals in the county were African American children. After

implementing this “blinding” process, African American children made up 27% of all removals in the county—still an overrepresentation, but a significant improvement.¹⁹ Attorneys and legal system leaders in other parts of the country can work to bring these best practices to their jurisdictions.

Examples of Good Practice:

Children’s Law Center of California

Recognizing bias and working to reduce disproportionality. Children’s Law Center of California (CLC) is continuously working to reduce disparity and disproportionality in the child welfare system. All CLC staff must attend quarterly cultural responsiveness trainings to gain insight into how clients experience the child welfare system, and to understand how practitioners can respond to each client’s individual needs, including the need for identity and connection to community. In addition, CLC sends several staff each year to the national [Courageous Conversations](#) Summits and Beyond Diversity trainings. Those staff lead and implement CLC’s cultural humility and cultural responsiveness education and self-examination efforts.

Creating a culture of inclusivity. CLC is committed to diversity, inclusion, and cultural humility organizationally. CLC’s workforce includes close to 10% of employees who have experienced foster care. Employees with lived experience work as peer advocates, social work investigators, case managers, administrative support staff, and attorneys. Efforts to recruit diverse staff are ongoing. A competitive job market led CLC to expand its internship program - opening internships to first-year law students, helping students identify funding sources for their work, helping students find fellowships and most recently creating a career path by self-funding paid post-bar fellowships with CLC.

Systems of child welfare legal representation that cannot employ these sorts of continuing education or recruitment and development activities should consider partnering with the child welfare or probation department, universities, and other community-based organizations to enhance training opportunities. Similarly, working with law schools to develop clinical opportunities for students and participating in local law school’s community outreach is a no- or low-cost way to increase staff diversity.

University of New Mexico Law School

Early, ongoing outreach to young students. The University of New Mexico Law School has worked for several years to increase diversity in the legal profession. The school builds relationships with students early in their academic careers, well before law school. Some approaches the school takes include:

- teaching civics to elementary school students at schools with large concentrations of lower-income students,
- developing an undergraduate social justice course, and
- using student “travel ambassadors,” who reach out to students in their communities and encourage them to consider a career in law.

The school finds that proactively building relationships with students and communities early and on an ongoing basis is key to increasing both racial and socioeconomic diversity among law students.

Washington’s Office of Civil Legal Aid, Children’s Representation Program

Bias awareness retreat. To help attorneys and staff understand personal and systemic bias and its impact on decision making, Washington’s Office of Civil Legal Aid, Children’s Representation Program invested in cultural humility training, which included a half-day retreat presented by [JustLead](#), and presentations by current and former foster youth through the [Mockingbird Society](#). The retreat addressed topics such as understanding privilege and structural racism. The day after the formal retreat, staff participated in a fishbowl conversation about communities of practice in different counties and how each county would move forward with the race equity work after what they had learned the previous day. The program manager notes that committing to cultural humility requires investing time and money and committing to making it an ongoing process.

Louisiana Pelican Center for Children and Families

Training to address bias in the child welfare system. The Pelican Center for Children and Families is a Louisiana nonprofit dedicated to improving outcomes for Louisiana’s children and families. Its provides intensive, coordinated, interdisciplinary training and education to child welfare practitioners,

including children’s and parents’ attorneys, judges, child protection staff, CASAs, foster parents, agency attorneys and others. Four times per year, the Center offers trainings that address bias and disproportionality in the child welfare system. The following trainings provide very low-cost continuing legal education opportunities that satisfy the annual requirements for certification to represent children in child welfare cases.

The *Cultural Consciousness* training introduces participants to concepts of cultural consciousness in the workplace and explores the impact of personal views and values regarding sexual orientation, gender, race and ethnicity on their role. Participants explore the roots of their biases and assumptions and how these dynamics affect their working relationships with others.

A separate racial disproportionality training introduces participants to concepts of cultural programming and implicit racial bias through the [Mosaic Dimension Model](#). The Mosaic Dimension Model assumes children who are moving through the foster care system are as culturally unique and different as mosaic patterns and teaches that we can each work to create a child welfare system where all children do well.

Endnotes

1. See, e.g., John Fluke et al., *Research Synthesis on Child Welfare Disproportionality and Disparities* (Center for the Study of Social Policy, 2010); see also, *Racial Disproportionality and Disparity in Child Welfare* (Children’s Bureau, 2016.); Ellis, Krista, *Race and Poverty Bias in the Child Welfare System: Strategies for Child Welfare Practitioners*, ABA CHILD LAW PRACTICE (December 17, 2019) available at: https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/race-and-poverty-bias-in-the-child-welfare-system---strategies-f/
2. *Research Synthesis on Child Welfare Disproportionality* 15 (citing Barth, 1997; Barth, Courtney, Berrick, & Albert, 1994; Crampton & Coulton, 2008; Jones Harden, 2007; Wulczyn et al., 2005).
3. See, e.g., A.J. Dettlaff et al., *Disentangling Substantiation: The Influence of Race, Income, and Risk on the Substantiation Decision in Child Welfare*. 33 CHILDREN AND YOUTH SERVICES REVIEW 1630–1637 (2011).
4. See Children’s Bureau 2016 report, *supra* note 1.
5. A 2010 ABA report found the legal profession is 70% Caucasian; see also *ABA National Lawyer Population Survey; 10-Year Trend in Lawyer Demographics* (American Bar Association, 2019), available at https://www.americanbar.org/content/dam/aba/administrative/market_research/national-lawyer-population-demographics-2009-2019.pdf; B. Orlebeke and A. Zinn, *Profile of Lawyers Representing Children*, in CHILDREN’S JUSTICE (American Bar Association, 2016) (finding 87% of children’s attorneys surveyed were white).
6. ABA Presidential Initiative Commission on Diversity, *Diversity in the Legal Profession: The Next Steps* (American Bar Association, 2010).
7. See, e.g., Song Richardson & Phillip Atiba Goff, *Implicit Racial Bias in Public Defender Triage*, 122 YALE L. J. 2626 (2013).
8. Ellis, Krista, *Race and Poverty Bias in the Child Welfare System: Strategies for Child Welfare Practitioners*, *supra* note 1.
9. K. Yeager & S. Bauer-Wu, *Cultural Humility: Essential Foundation for Clinical Researchers*, 26(4) APPLIED NURSING RESEARCH J. (Nov. 2013), available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3834043/>
10. Id.

Technical Assistance

FJI team members are available to help implement the FJI attributes.

Visit the [Family Justice Initiative website](#) for more information.

In addition, attorneys can participate in a three-day [Undoing Racism](#) workshop for child welfare stakeholders. The intensive workshop challenges participants to analyze the structures of power and privilege that hinder social equity and prepares them to be effective organizers for justice. The multiracial team of organizers and trainers includes more than 100 men and women whose anti-racist organizing expertise includes years with civil, labor, and welfare rights struggles, educational, foster care, social service and health reform movements, as well as youth and grassroots community organizing.

The annual statewide child welfare conference also offers a number of trainings focused on systemic bias, race, and class in child welfare.

11. *Building a Culturally Responsive Workforce: The Texas Model of Undoing Disproportionality and Disparities in Child Welfare* (Webinar 2013) available at: https://ncwwi.org/files/Building_a_Culturally_Reponsive_Workforce_1-pager.pdf.
12. At a statewide summit of child welfare legal professionals in Pennsylvania in 2018 included a presentation by Jodi Pfar, <https://www.jpfar.com>, focused on working across class boundaries.
13. *Awake to Woke to Work: Building a Race Equity Culture*, 3 (Equity in the Center 2018).
14. *Id.* at 3.
15. *Id.*
16. W. Kennedy, *The Diversity Bonus: What Public Interest Law Firms Have Missed Regarding Diversity* (Sargent Shriver National Center on Poverty Law, 2018) available at: <https://www.povertylaw.org/clearinghouse/articles/Kennedy>; see also SCOTT E. PAGE, *THE DIFFERENCE: HOW THE POWER OF DIVERSITY CREATES BETTER GROUPS, FIRMS, SCHOOLS, AND SOCIETIES* (Princeton University Press 2006).
17. Fitzgerald, Michael, *To Eliminate Racial Bias, Child Welfare Breakthrough Tells us to Try Colorblindness*, *CHRONICLE OF SOCIAL CHANGE* (August 18, 2019), available at: <https://chronicleofsocialchange.org/news-2/color-blind-implicit-bias-foster-care-new-york/34458>; see also *Race Equity: Nassau and Onondaga County Report* (Social Work Education Consortium, December 2016), available at: <https://www.nassaucountyny.gov/DocumentCenter/View/18095/FINAL-OCFS-Report-Race-Equity-2016?bidId=>
18. *See id.*
19. *See id.*



The FJI unites professionals from around the country to ensure every child and every parent has high-quality legal representation when child welfare courts make life-changing decisions about their families. Through the FJI's work, child welfare lawyers, researchers, judges, social workers, policymakers, families impacted by abuse and neglect, and others are reenvisioning how to best protect children, strengthen families and support communities.