



*Making the Legal System Work for Children and Parents*

# High-Quality Legal Representation for Children and Parents: A Guide for System Change

## *Introduction and Getting Started*

In 2017, the Family Justice Initiative (FJI)<sup>1</sup> identified fundamental attributes of high-quality legal representation for parents and children in child welfare proceedings, beyond presumed competency and knowledge of the law, rules of procedure, and negotiation and trial skills. The [FJI Attributes of High-Quality Legal Representation](#), are divided into individual attorney attributes and system attributes needed to ensure that parents' and children's attorneys are properly supported to meet their individual obligations to clients.

This guide focuses on how to implement the FJI system attributes which address:

- [Attribute 1: Caseload and Compensation](#)
- [Attribute 2: Interdisciplinary/Multidisciplinary Practice Model](#)
- [Attribute 3: Diversity/Cultural Humility](#)
- [Attribute 4: Timing of Appointment](#)
- [Attribute 5: Support and Oversight](#)
- [Attribute 6: Accountability/Use of Data](#)

These system attributes build on and support Standards of Practice<sup>2</sup> for attorneys representing children and parents in child welfare proceedings, and findings and recommendations from the National Quality Improvement Center on the Representation of Children in the Child Welfare System<sup>3</sup> and the U.S. Department of Health and Human Services, Administration for Children and Families.<sup>4</sup>

This guide provides implementation suggestions for those working to achieve high-quality legal representation for parents and children in child welfare proceedings. Many of the system attributes will be a significant change for jurisdictions throughout the country.<sup>5</sup> They will require a change of thinking by stakeholders and significant public investment of federal, state, and local dollars, as well as support from philanthropy.

Jurisdictions that have successfully reformed their legal representation systems for children and parents in child welfare proceedings have generally done so incrementally, typically capitalizing on local or state political will to improve legal representation.<sup>6</sup> Keys to improving parents' and/or children's representation often involve:

1. documenting cost-savings or potential cost savings related to high-quality legal representation for parents and children;
2. providing examples of other jurisdictions that have made systems-changes; and
3. telling stories about the impact high-quality legal representation can have on clients' lives.

This guide helps child welfare stakeholders and leaders think through and structure their jurisdictions' legal representation programs. It provides tips and ideas for securing public investment in high-quality legal representation for families.

Because of recent changes to federal policy guidance,<sup>7</sup> federal Title IV-E funds are now available to help support high-quality legal representation for children and parents. To take advantage of this opportunity, now is the time to think through system reform, implement needed change, and invest state and local dollars in high-quality legal representation for families.



## Tips for Getting Started

System change is rarely easy. Start by taking the following steps:

### ✓ Document the Problem

Clearly state and document deficiencies in current legal representation for parents and/or children to highlight the need for reform.

### ✓ Know the Research

Research shows that when parents receive high-quality interdisciplinary legal representation, families are more likely to reunify with no compromise to child safety, shortening the time children spend in foster care and saving millions in public dollars.<sup>8</sup> Similarly, high-quality legal representation for children in foster care is linked to children spending less time in foster care.<sup>9</sup> A complete summary of research related to legal representation for children and parents in child welfare proceedings can be found on the FJI Website's [Research](#) page.

### ✓ Understand Your Current System

Understand how your current system of legal representation for families is funded and learn about federal and other resources. This information will be important to your work improving the quality of legal representation in your state, tribe, or territory. For example:

- Does the financing flow through the judiciary, through an executive agency, or through another source?
- Is the financing county-based or state-based?

- Are the funding structures memorialized in statute, court rule, or common practice?

### ✓ **Clarify Attorney Duties**

Document attorneys' duties under statutes and professional attorney standards. Calculate the time needed to perform each duty to make the case that attorneys cannot meet their legal and ethical duties to clients without investing in systemwide changes that enable and empower them to do so.<sup>10</sup>

### ✓ **Identify Your Messengers**

Hearing from constituents, parents, and children impacted by the status quo can be persuasive and bring emotional urgency to the need for high-quality legal representation.

### ✓ **Have a Vision**

Have a vision for a better system and what you are requesting. Use research/articles to help you “make the case” for investing in high-quality representation (see the [FJI website](#)). Additionally, map out the desired system and have concrete ideas about reform so you can state your vision to decision makers.

### ✓ **Start Small**

Many jurisdictions that have improved legal representation for parents and/or children did not do so overnight. System change often happens incrementally. Piloting recommended reforms in two to three counties and tracking impact is one way to build support for improved representation. FJI works with jurisdictions to demonstrate that implementing the FJI attributes improves legal representation and child welfare outcomes. For more information on FJI demonstration sites, including the [FJI data collection tool](#), visit the [FJI website](#).

### ✓ **Identify Key Legislators**

Identify legislators who are interested in child welfare or family issues, serve on committees that oversee child welfare, and serve on appropriations and judiciary committees.

### ✓ **Identify/Persuade Key Decision Makers**

Identify administrative avenues to reform the system. For example, establishing a local court rule regarding appointment of counsel or training that addresses cultural humility may help achieve some of your goals.

### ✓ **Recruit Allies**

Hearing from other stakeholders who are impacted by legal representation for parents and children can help persuade policymakers to invest in legal representation. For example, hearing from the child welfare agency that high-quality legal representation for children and parents keeps the agency accountable and improves family outcomes can be persuasive.

### ✓ **Be Persistent**

Many decision makers, including state and local legislators, are hesitant or feel limited in their ability to make drastic changes or spend more money. However, persistence can pay off.

## Endnotes

1. The Family Justice Initiative is a national collaborative of children’s attorneys, parents’ attorneys, educators, researchers, and national policy advocates who share a common goal: to ensure that every parent and every child has high-quality legal representation when child welfare courts make life-changing decisions about their families. It is led by the ABA Center on Children and the Law, the Children’s Law Center of California, and the Center for Family Representation.
2. ABA STANDARDS OF PRACTICE FOR ATTORNEYS REPRESENTING PARENTS IN ABUSE AND NEGLECT CASES (American Bar Association, 2006); ABA STANDARDS OF PRACTICE FOR LAWYERS WHO REPRESENT CHILDREN IN ABUSE AND NEGLECT CASES (American Bar Association, 1996); NACC RECOMMENDATIONS FOR REPRESENTATION OF CHILDREN IN ABUSE AND NEGLECT CASES (National Association of Counsel for Children, 2001).
3. DONALD N. DUQUETTE, CHILDREN’S JUSTICE: HOW TO IMPROVE LEGAL REPRESENTATION FOR CHILDREN IN THE CHILD WELFARE SYSTEM (American Bar Association, 2016).
4. U.S. DEP’T. OF HEALTH & HUMAN SERVS., ADMIN. FOR CHILDREN & FAM., INFORMATION MEMORANDUM: HIGH QUALITY LEGAL REPRESENTATION FOR ALL PARTIES IN CHILD WELFARE PROCEEDINGS, ACYF-CB-IM-17-02 (January 17, 2017).
5. In 2017, the ABA Center on Children and the Law and Family Justice Initiative conducted a survey of children’s and parents’ attorneys nationally. Responses from 35 states revealed many systemic obstacles to high-quality representation exist, including for example inadequate compensation for children and parents’ attorneys, pay structures that do not fully recognize the significance of attorney out-of-court work, and appointment systems that do not allow for attorney preparation before the first court hearing.
6. For tips on making political progress to improve legal representation for families, see Reforming the System, in Guggenheim, M. & Sankaran, V., *Representing Parents in Child Welfare Cases: Advice and Guidance for Family Defenders* (2015), pp. 403-426).
7. U.S. Dep’t of Health & Human Servs., Admin. for Children & Fam., Children’s Bureau. “[8.1B TITLE IV-E, Administrative Functions/Costs, Allowable Costs-Foster Care Maintenance Payments Program](#)” *Child Welfare Policy Manual*. For more information about drawing down Title IV-E funds to support high-quality legal representation, visit the Family Justice Initiative website [Federal Funding](#) page.
8. See Lucas A. Gerber et al., *Effects of an Interdisciplinary Approach to Parent Representation in Child Welfare*, 102 CHILDREN & YOUTH SERVS. REV. 42-55 (July 2019); see also M.E. Courtney & J.L. Hook, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, 34(7) CHILDREN & YOUTH SERVS. REV. 1337-1343 (2012).
9. A. Zinn & J. Slowriver, [Expediting Permanency and Legal Representation for Children in Palm Beach County](#) (Chapin Hall, 2008).
10. See, e.g., 2015 [PENNSYLVANIA STATE ROUNDTABLE REPORT, LEGAL REPRESENTATION: A CALL TO ACTION](#) (2015).

### Technical Assistance

FJI team members are available to help with these implementation steps.  
Visit the [Family Justice Initiative website](#) for more information.



The Family Justice Initiative (FJI) is a collaboration of the ABA Center on Children and the Law, the Children’s Law Center of California (CLC), the Center for Family Representation (CFR), and Casey Family Programs (CFP).

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.