

Title IV-E Funding and Quality Legal Representation

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The Evidence

- There is evidence to support that legal representation for children, parents, and youth contributes to or is associated with:
 - Increases in party perceptions of fairness;
 - Increases in party engagement in case planning, services and court hearings;
 - Increases in visitation and parenting time;
 - Expedited permanency; and
 - Cost savings to state government due to reductions of time children and youth spend in care

ACYF-CB-IM-17-02, issued January 17,
2017





Findings from the final evaluation of showed that, compared with the control group, Georgia attorneys who implemented the model:

- Met with their child client more frequently;
- Contacted more parties relevant to the case;
- Spent more time on cases; and
- Engaged in more advocacy activities.

- Child representation practice constituted less than 20% of legal work and income for most attorneys participating in the study.
- Attorneys with a higher proportion of child welfare cases spend more time on each case.
- A majority of children's attorneys participating in the study thought compensation was somewhat or very inadequate.
- Attorneys' opinions about the degree to which their work in child welfare cases is rewarding were positively associated with the rates of best practice activities.
- Children's attorneys also reported not having access to experts with whom they could consult, underscoring resource shortages that impair the ability to provide effective legal representation.



The Policy: “New” Title IV-E Federal Funding Opportunity

- On December 21, 2018, the U.S. HHS Children’s Bureau changed its policy regarding IV-E funding reimbursement for “administrative costs” of providing “independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent.”
- Later amended to include tribal representation (7/28/19) and costs of paralegals, investigators, peer partners, social workers, support staff, and overhead for independent child and parent legal representation (4/21/2020)





May a title IV-E agency claim title IV-E administrative costs for attorneys to provide legal representation for the title IV-E agency, a candidate for title IV-E foster care or a title IV-E eligible child in foster care and the child's parents to prepare for and participate in all stages of foster care related legal proceedings?

Answer

Yes. The statute at section 474(a)(3) of the Act and regulations at 45 CFR 1356.60(c) specify that Federal financial participation (FFP) is available at the rate of 50% for administrative expenditures necessary for the proper and efficient administration of the title IV-E plan. The title IV-E agency's representation in judicial determinations continues to be an allowable administrative cost.

Previous policy prohibited the agency from claiming title IV-E administrative costs for legal services provided by an attorney representing a child or parent. This policy is revised to allow the title IV-E agency to claim title IV-E administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent to prepare for and participate in all stages of foster care legal proceedings, such as court hearings related to a child's removal from the home. These administrative costs of legal representation must be paid through the title IV-E agency. This change in policy will ensure that, among other things: reasonable efforts are made to prevent removal and finalize the permanency plan; and parents and youth are engaged in and complying with case plans.

Source/Date

1/7/2019

Legal and Related References

45 CFR 1356.60(c), section 474(a)(3)



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.



Implementation Details

- 50% FFP for “administrative costs” necessary for the proper and efficient administration of the Title IV-E plan
 - .50 (Total cost of representation x state’s Title IV-E penetration rate)
- Must be paid through Title IV-E agency
- Cost Allocation Plan must be amended to describe procedures used to identify, measure, and allocate all costs is needed. Identify scope of the clients for whom legal representation costs are to be incurred.
- Express goal is to ensure reasonable efforts to prevent removal and finalize permanency plan, and parent and youth engagement in and compliance with case plans



Question: What are some examples of *allowable administrative activities* for agency or independent attorneys to prepare for and participate in judicial determinations for all stages of foster care legal proceedings?

Answer: Examples include:

- independent investigation of the facts of the case, including interacting with law enforcement,
- meeting with clients or making home or school visits,
- attending case planning meetings,
- providing legal interpretations,
- preparing briefs, memos, and pleadings,
- obtaining transcripts,
- interviewing and preparing their client and witnesses for hearings,
- hearing presentation,
- maintaining files,
- supervising attorneys, paralegals, investigators, peer partners or social workers that support an attorney in providing independent legal representation to prepare for and participate in all stages of foster care legal proceedings,
- filing child abuse and neglect petitions for candidates for foster care,
- court fees to file a petition for a judicial determination required under title IV-E, and
- appellate work in reference to foster care legal proceedings.



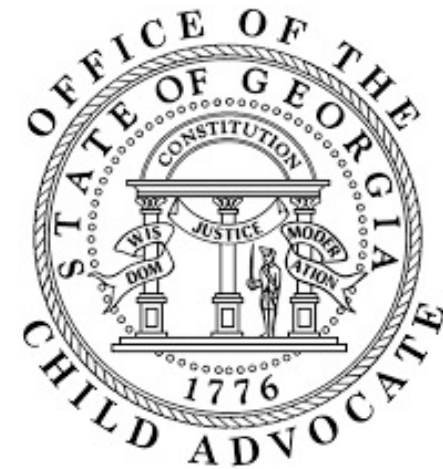
Children's Justice Act Task Force Assessment

Findings:

- Attorney compensation
- Access to dependency case resources (information and experts)
- Use of interdisciplinary teams
- Incentives to support additional training, certifications or specializations and meet professional development recommendations/requirements
 - Ongoing case law and legislative updates
 - DFCS policy and practice
 - Evidence and trial skills
- Access to professional development supports and training in specific areas
 - Trial skills, motions practice, and evidence training specific to dependency
 - Specialized training in child welfare / dependency law
 - Georgia-specific practice materials and forms



Chatham County Pilot



Preventive Legal Advocacy Projects



AVLF's Standing with Our Neighbors Initiative

When our neighbors stand up to demand safe and stable housing for their families, a community of AVLF volunteers stands with them.





GAL Implications



Opportunities for Legislative Advocacy

- 2022 Legislative Session
- HB 322 (Part II):
<https://www.legis.ga.gov/legislation/59376>
- 2021 Child Welfare Summit presentation:
Legislative Advocacy 101

