

2nd Edition | 2023

CHILDREN'S LAW OFFICE GUIDEBOOK

Best Practice Guidelines for
Organizational Legal Representation
of Children in Neglect, Abuse, and
Dependency Cases

KRISTEN PISANI-JACQUES, JD, CWLS
Lead Editor

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FOREWORD

Kim Dvorchak, JD

The National Association of Counsel for Children (NACC) is honored to present the Second Edition *Children's Law Office Guidebook* to advance best practices in organizational representation of children and youth in neglect, abuse, and dependency proceedings.

The First Edition was released in 2006 as the *Child Welfare Law Office Guidebook: Best Practice Guidelines for Organizational Legal Representation of Children in Abuse, Neglect, and Dependency Cases*. The Guidebook set the standard for the delivery of high-quality legal services to children: a dedicated law office with an institutional structure that allows multiple attorneys to focus their attention and resources on the representation of children and youth. Providing a step-by-step plan for model law office operation, administration, and funding, the Guidebook laid the foundation for organizational representation in this specialized area of law.

The Guidebook was developed following the launch of NACC's Children's Law Office Project in 2006. Known as "CLOP," the project helped children's law offices across the country come together to engage in shared learning and to create guidance for both established children's law offices and those seeking to develop organizational representation. NACC recognizes and thanks the inaugural CLOP National Advisory Board and First Edition Guidebook contributors who broke new ground and helped expand and support children's law office leaders and delivery systems across the country. CLOP continues to provide a forum for discussion through monthly meetings, a national listserv, and an annual convening to identify and advance best practices to support high-quality children's legal representation.

The Second Edition Guidebook demonstrates the growth of specialized legal representation over the past fifteen years and features new voices and contributors leading the field today. The new edition includes thirty-eight chapters and fifty-six contributors who represent a diverse set of voices — in race, gender, geography, type of office, and years and types of experience. NACC is incredibly grateful for their time, insights, and dedication to advancing high-quality lawyering, equity, and the voices of children and youth served. NACC Training Director Kristen Pisani-Jacques, editor of the Second Edition Guidebook, developed the contributor and style guide, engaged contributors in two rounds of editing, and led the book through its completion and publication. The value of her skillful leadership and commitment cannot be overstated. NACC also thanks Certification Administrator and Technical Writer Ginger Burton for copyediting the Guidebook.

NACC extends its gratitude to the funders and advisors who shared their time and expertise during this two-year project. Development of the Second Edition was funded by Casey Family Programs, guided by a planning team led by NACC Executive Director Kim Dvorchak and Trenny Stovall of 4J Consulting, and included Tania Anaissie of Beytna Design, Angela Orkin of True North Child Advocates, Rob Wyman of Casey Family Programs, NACC Training Director Kristen Pisani-Jacques, and NACC Legal Director Allison Green. The planning group finalized the scope of the project, conducted research on the landscape of children's legal representation delivery systems, and selected a National Advisory Committee to develop the structure and content of the Guidebook.

A diverse National Advisory Committee was convened, adding Leslie Starr Heimov, Janet Bledsoe, Cathy Krebs, Erin Lovell, Lynda McGhee, Dawne Mitchell, and Jim Walsh to the planning group. The National Advisory Committee developed and reviewed a national children's law office survey to identify and explore the needs, concerns, and issues currently impacting children's legal service delivery.

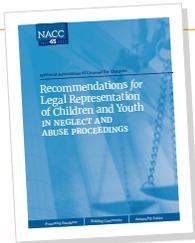
Re-envisioning this landmark resource, the Committee developed the outline and chapters of this expanded Second Edition and identified contributors. Sections of the book were also workshopped and/or co-written by lived experience experts and members of NACC's National Advisory Council on Children's Legal Representation (NACCLR): Jade Garza, Louie Gasper, Kristen Nicole Powell, and Nicole Wong. They ensured that the collective experience and wisdom of the young people the profession serves was valued, uplifted, and incorporated throughout.

The resulting Second Edition *Children's Law Office Guidebook* provides a timely resource at a pivotal moment in our field and in the broader movement to ensure access to high-quality legal representation for children and youth. This Guidebook is complemented by a suite of new and revised NACC publications: *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings* (2021), *Child Welfare Law and Practice: Representing Children, Parents, and Agencies in Neglect, Abuse, and Dependency Cases, Fourth Edition* (2022), and *Seen, Heard, and Represented: A Policymaker's Guide to Counsel for Kids* (2023) — see below. Collectively, these resources provide the field a wealth of information to ensure the rights and wellbeing of children, parents, and families navigating the child welfare system.

At NACC, your practice is our purpose. Visit NACCchildlaw.org for more information about participating in the Children's Law Office Project, attending the Children's Law Office Convening, and joining the listserv.

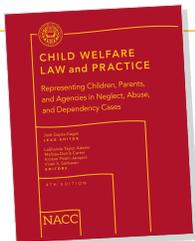
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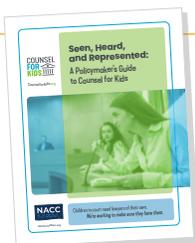
NACC RECOMMENDATIONS FOR LEGAL REPRESENTATION OF CHILDREN AND YOUTH IN NEGLECT AND ABUSE PROCEEDING

<https://NACCchildlaw.org/standards-of-practice/>



CHILD WELFARE LAW AND PRACTICE: REPRESENTING CHILDREN, PARENTS, AND AGENCIES IN NEGLECT, ABUSE, AND DEPENDENCY CASES, FOURTH EDITION

<https://NACCchildlaw.org/product/the-red-book/>



SEEN, HEARD, AND REPRESENTED: A POLICYMAKER'S GUIDE TO COUNSEL FOR KIDS

<https://CounselForKids.org/wp-content/uploads/2023/04/C4K-PolicyPaper-FINAL-DIGITAL-2.pdf>

I: INTRODUCTION

Leslie Starr Heimov, JD, CWLS

From the moment the child welfare system intervenes, everything in a child's life is at stake — their home, their bonds with parents and siblings, their education, their memories, their community, and their future. To journey through this system — which spans across branches of government and agency bureaucracies and is governed by federal, state, and local law — can be complicated, protracted, and deeply traumatic. High-quality legal representation is essential to help children, youth, and families navigate these complex processes, advance their legal rights, ensure their voices are heard, and help them to reach their goals.

Law offices or agencies dedicated to representing young people are one of the best avenues to ensure children's rights are protected and their voices are heard. As children's right to counsel expands and federal funds become available to cover some costs, jurisdictions and offices are seeking guidance to develop and operate programs and systems that provide high-quality legal representation to children and youth. NACC is pleased to provide children's law offices with this Second Edition *Children's Law Office Guidebook* as a roadmap for the organizational provision of high-quality legal representation to children and youth.

Today's world of law office management and supervision exists in a complicated and rapidly changing landscape. Although tough budget decisions, workforce development challenges, and complex practice and policy revisions are often daunting, each of these challenges opens the door to exciting opportunities. New avenues of federal and private funding spark creative "outside-the-box" initiatives. Time spent on meaningful performance evaluations and professional development helps to build a strong and capable next generation of leaders. The focus and energy supervisors bring to case reviews with a new attorney ensures issues are not missed and the clients' goals move forward. Hours spent in collaboration with staff to pilot hybrid work options and the best of use of technology ensures employees' needs around flexibility, sustainability, and wellness are honored, respected, and valued.

This practical and progressive Second Edition presents best practices in providing specialized legal services and advances the development and expansion of organizational legal representation of children and youth. NACC recognizes the important role of children's lawyers in reimagining child welfare and judicial systems to prevent unnecessary family separation. This edition of the Guidebook encourages organizational cultures that promote antiracism, staff wellbeing, and building and retaining a diverse staff more reflective of the children and youth served. Centering youth voice by creating career paths which highlight the role of lived experience experts improves legal service delivery and strengthens community connections. Targeted work revamping missions, visions, and strategic plans to center equity, diversity, inclusion, and belonging for staff and clients alike lays the foundation for improved outcomes.

Children's legal service delivery systems across the country include nonprofit organizations, county agencies, state agencies, civil legal aid offices, public defender systems, and contractors. The Second Edition Guidebook provides universal guidance on organizational representation and gives leaders and senior staff a clear and concise blueprint for getting started, scaling up operations, and developing systems, policies, and practices that promote and sustain high-quality legal representation of children and youth.

NACC invites children's law office leaders to use the Guidebook to inspire and to implement not only what children's legal representation is now, but what it could be. NACC, the National Advisory Committee, and Guidebook contributors join in their desire that the Second Edition *Children's Law Office Guidebook* helps offices to provide the best possible advocacy and service delivery, encourage reflective leadership, and promote practices which strengthen communities so that children, youth, and their families can thrive.

Leslie Starr Heimov, JD, CWLS

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Executive Director, Children's Law Center of California

II: BEST PRACTICES FOR CENTRALIZED CHILDREN'S LAW OFFICES

A: RUNNING A CHILDREN'S LAW OFFICE: INFRASTRUCTURE AND OPERATIONS

A.1: Business Planning

Anne Tyler Gueinzus, JD & Lilia Panteleeva, JD

INTRODUCTION

Representing children in child protection matters requires great care and great responsibility. At times, it can involve some of the most challenging work that attorneys and other organization members will experience, but it can also yield some of the most rewarding outcomes for children. Detailed planning and consideration are prerequisites to establishing a children's law office.

REPRESENTATION MODEL FACTORS TO CONSIDER

State's Legal Requirements for Representation

One of the most significant factors to consider in the organization's establishment is *how* the organization will represent children in child protection matters. Understanding the specifics of the state's law regarding a child's right to counsel and children's legal representation requirements will help define the organization's representation model. Determine if the state has an express right to counsel for children or if it is implied by case law and the age at which the right to representation starts. This will help create the framework the organization wants to utilize in its model. Also, ascertain whether the attorneys in the office are required by state law to operate as client-directed, best interests-driven, or a hybrid approach.

Types of Child Protection Cases

Next, decide which type or types of child protection cases the organization will accept. The organization can decide if the representation will be limited to certain child protection case types such as children in out-of-home placement, pre-permanency cases, post-permanency cases, truancy, education neglect, etc. The office should also consider whether it will only practice in juvenile court or if its attorneys will appear in other courts for specific matters such as orders for protection and/or harassment orders in family court or name and gender changes in civil court. The office must also determine its plans for handling any appeals.

Representation Mechanics

Considerations about the organization's representation mechanics will be heavily informed and dictated by the jurisdiction's statutes, rules, and practice standards, and include the following:

- » **How to receive cases:** Via court appointment, child intervention, or request of a party.
- » **Party or participant status:** Determine whether the child needs to motion for party status or if party status is automatically conferred by law or agreement.
- » **Conflict assessment process:** Consider consulting with the local Board of Professional Responsibility and/or an ethics attorney.
- » **Client engagement letters or representation agreements:** Prepare these to remind child clients of the attorney's role in representing the child and to set realistic expectations of the representation as well as to explain the organization's file retention policy and confidentiality.

- » **Use of volunteer attorneys:** Consider when and how the organization will utilize volunteer attorneys and establish a process for selecting, training, and supervising volunteers.

BUDGETING DECISIONS

The organizational budget must include income and expenses and should be updated prior to each fiscal year. Budgeting considerations should include a review of the following:

- » Consistent income streams (e.g., guaranteed funding of set contracts and committed grants)
- » Variable income streams (e.g., limited-term grants or contracts, and one-time contributions)
- » Consistent expenses (e.g., staff salaries, rent, utilities, supplies, legal malpractice coverage, and IT maintenance and support)
- » Variable expenses (e.g., updated equipment, technology/software)
- » Trends within the practice area that may affect the organization's expenses (e.g., projected increased or decreased caseloads or increased remote working)

COMMUNITY ENGAGEMENT

Collaboration Model

In the office's jurisdiction there may be agencies that do similar work or provide other services to children and youth involved in dependency proceedings. Connecting with these agencies can help to avoid redundancies, create a referral process, and identify current issues facing youth in foster care, as well as opportunities to improve the systems that affect their lives.

Legal Community Engagement

If the organization implements a volunteer attorney model, partnering with local law firms and corporation legal departments will help streamline the volunteer attorney recruitment process. Many firms have a designated pro bono coordinator who facilitates the firm's pro bono work. Consider developing a training program that is inclusive of attorneys with various experience and practice levels, especially in-house counsel who may not have much courtroom experience. Ensure that all volunteer attorneys receive adequate training and ongoing support.

GROWTH MANAGEMENT

Various factors may affect the organization's growth and reductions. These factors include:

- » Revenue fluctuations due to contract/grant losses or an increase or decrease in contributions
- » Changes in the organization's caseload such as an overall increase/decrease in the number of children coming into the child protection system or re-entering the system, an increase/decrease in referrals to the organization, or the number of volunteer attorneys available

To plan for such fluctuations and prevent a budget shortfall, an organization should consider building a reserve to ensure financial sustainability by setting additional revenue aside, assess renegotiating rent and vendor contracts, continuously assess income streams, research additional grant prospects, and seek to maximize and attract new donors.

DISASTER PLANNING

Disaster planning is a necessary component of any organization's planning and includes the following:

- » Maintaining organizational transparency of positions and roles

- » Cross-training
- » Ensuring secondary signatures for finances
- » Identifying significant passwords
- » Creating policies for interim concerns such as loss of significant individuals, office space, and pandemic concerns
- » Clear communication and feedback with the organization's Board of Directors regarding crisis response plans

CONCLUSION

Establishing a children's law office requires a thorough and detailed consideration of the organization's practice area, budgeting, community engagement, growth management and disaster planning. Once this initial work has been completed, establishment of an efficient, effective, and sustainable children's law office is then attainable.

A.2: Strategic Planning

Tara Grigg Green, JD, MPP & Nicole Kati Wong, JD, MST

INTRODUCTION

Strategic planning is the process that identifies strategies to advance and achieve the organization's mission, vision, and values. Organizations go through phases, or life cycles, so the process typically plans for the next three to five years. Strategic planning is crucial in starting and running a children's law office, but it is typically taught in business school, not law school. Since children's law offices are usually run by lawyers, the process can be overwhelming and intimidating. Approach the process piece by piece.

Ultimately, strategic planning works to answer three questions:

- » Where does the organization want to go?
- » How do they want to get there?
- » How will they know when they have arrived?

Thoughtful contemplation of such questions lays the groundwork for execution, and it can be tedious, but it is necessary for organizational growth and success. There will be some element of "figuring things out along the way" and adjusting the plan as part of implementation, but this process helps think through all of the different strengths, weaknesses, and potential paths for the organization as thoroughly as possible.

MISSION, VISION, AND VALUES

The mission, vision, and values are the most crucial elements of the strategic plan. These are the guideposts the organization will use in the future to make pivotal decisions. For example, if a new funding opportunity arises but there are strings attached, the organization needs to make sure the conditions of the funding further the mission before accepting.

Mission

A mission statement is a succinct description of the organization that clearly communicates its purpose and core services. Some examples are:

- » *Children's Law Center of Minnesota:* "Children's Law Center of Minnesota promotes the legal rights and well-being of children and youth. CLC's staff and volunteers provide direct representation of children and youth, primarily in the child welfare system, and advocate for changes in the systems that affect their lives."¹
- » *Children's Law Center of California:* "Children's Law Center of California provides legal representation for children and youth impacted by abuse and neglect. We advocate for our clients by supporting families; fighting for reunification, permanence, educational opportunity, health, and mental health wellness; and empowering and strengthening children, families, and their communities. Our informed approach to advocacy makes us a powerful voice in local, statewide, and national child welfare system reform."²

1 *Mission Statement* (n.d.). Children's Law Center of Minnesota. <https://clcmn.org/about-us/> (last visited Oct. 5, 2023).

2 *Mission*. (n.d.). Children's Law Center of California. <https://www.clccal.org/about/mission/> (last visited Oct. 5, 2023).

Vision

A vision statement is aspirational; it is the change in the world that the organization is working to create. The mission relates to the vision because the mission statement is how the organization is pursuing its vision. Some examples are:

DC's Children's Law Center: "A world in which all children have a strong foundation of family, health and education and are free from poverty, trauma, racism and other forms of oppression."³

Rocky Mountain Children's Law Center: "A world that values childhood and provides a bridge to adulthood that supports every young person's journey."⁴

Values

Values are the core beliefs held by the organization. Values are most important for internal operations and organizational culture because they create a standard for employees and management to uphold. There are many common, and even obvious, values, like respect, integrity, and excellence. However, children's law offices must also embrace the value of antiracism. The child protection system perpetuates systemic racism,⁵ so the only way to be truly effective in this work is to actively counter the prejudices embedded in the system.

Values direct not just how the work is done, but also, internally, how staff is treated and how organizational culture is created. Diversity, equity, and inclusion (DEI) has to be built into the foundation of the organization. It is incredibly hard to meaningfully incorporate them after the culture and operations are already formed. DEI needs to be considered in everything from writing the employee handbook to developing job descriptions and requirements. From the beginning, also make sure there is a plan to build in holistic healing and wellness of the staff to reduce burnout, secondary trauma, and turnover.

GOALS

Organizations must know where they are going in order to figure out how they will get there. Once the destination is determined, a plan to get to that point can be accomplished by working backwards from the destination. The plan needs to include goals that can be achieved along the way to ensure success. Setting goals also requires a thorough evaluation of the starting point, including financial income streams, current staff and resources, any barriers to success, and any potential opportunities for growth.

For each goal, clearly lay out steps to meet that goal that are achievable and measurable. For example, if the organization's goal is to raise \$1,000,000 in four years, then the steps to achieve that goal might be to raise \$250,000 each year, or over \$20,000 each month.

In thinking through what can be achieved at each step, make the most accurate and honest estimate possible based on concrete information about how the organization has performed in the past and is currently performing. Steps should not be written into the plan if they are not reasonable given a lack of resources or constraints, such as time or local politics. Offices must establish a system to collect data to evaluate progress on the plan. From there, review performance often, and recalibrate as needed. For effective strategic planning, offices must be nimble and able to course-correct before problems become too big.

3 Vision. (n.d.). D.C.'s Children's Law Center. <https://childrenslawcenter.org/who-we-are/strategic-framework/> (last visited Oct. 5, 2023).

4 Our Vision (n.d.). Rocky Mountain Children's Law Center. <https://childlawcenter.org/about/> (last visited Oct. 5, 2023).

5 Racial Justice (n.d.). Children's Rights. <https://www.childrensrights.org/focus-areas/racial-justice> (last visited Oct. 5, 2023).

For example — a children's law office does not currently provide multidisciplinary representation but wants to implement a multidisciplinary representation model. One of the goals, after hiring the appropriate staff, is to provide multidisciplinary representation to 20% of the clients after one year. The leadership checks in at the six-month mark and realizes that only 5% of clients have multidisciplinary representation, and they are not on track to meet their Year One goal. The leadership needs to investigate what is going wrong. Is the multidisciplinary staff already at capacity? Are attorneys resisting bringing in the multidisciplinary team? Is the administrative process to attach a multidisciplinary team to the case not efficient? Leadership learns that the attorneys did not understand the process to request a multidisciplinary team, so they were not doing it. Leadership is able to clarify and streamline that process, which increases the number of clients able to get multidisciplinary representation, and they meet their 20% Year One goal.

INCLUDING STAFF AND CLIENTS

Organizations should seek to meaningfully include staff in the strategic planning process as much as possible. Organizations can hold listening sessions to hear feedback and comments from staff. Proposed policy changes can be presented to staff for input through an anonymous link. This ensures well-intentioned decisions do not have unintended consequences.

Finally, incorporate voices of people with lived experience in the planning process. These are the people the organization serves, so they are best situated to provide input on whether the plan will work. Be mindful that comfort with participation may vary from person to person, so use multiple different avenues (in-person and digital; group and individual) and allow anonymous participation. Also make sure the space feels safe and judgment-free for honest feedback.

A.3: Office Policies and Procedures

Kirby Kenny Casciato, JD, CWLS & Josephine Vanderhorst, MAFP, JD, CWLS

GUIDING CONSIDERATIONS IN DEVELOPING OFFICE POLICIES AND PROCEDURES

Children’s law offices must have clear office policies and procedures to establish not only the expectations and obligations of staff but also to further the values and mission of the office in client representation. As the previous chapter discussed, the values and mission of a children’s law office lay the foundation for the office’s operation, culture, and type of representation. Written policies and procedures (collectively known by many names — employee handbooks, practice/policy manuals, standard operating procedures, etc.) must be developed, adopted, and periodically revised to align with and promote the office’s mission, values, and goals. Generally, office policies will fall into two categories — administrative/personnel matters and substantive practice matters.

Policies and procedures in both categories should reflect the office’s commitment to valuing diverse voices and emphasize inclusivity. Policies should seek to further diversity, equity, inclusion, and belonging in the office and the child welfare field. Such policies include recruitment and retention efforts to ensure that staff reflect the population served, ongoing training and reflection on implicit and explicit biases, utilizing data, and ensuring that policy development includes diverse input.

DEVELOPING OFFICE POLICIES AND PROCEDURES

To develop a policy manual, children’s law offices should gather input from multiple perspectives depending on the subject. Administrative policies regarding paid time off, health benefits, or use of office equipment should be developed with the input of staff and leadership. Development of substantive practice policies on subjects like client engagement, referrals to services and supports, and peer advocacy programs must include perspectives from the population served by the office, community partners, and other external stakeholders as well as staff and leadership. Although the manual may not be written by all members of the unit or office, there should be a review process for all stakeholders to provide feedback. Staff and community members should understand how their input will be solicited and incorporated into the final draft. Policy development needs to be a process that involves patience and realistic timelines. Leadership must provide initial and ongoing office training on the manual and policies. Policies and procedures must respond to the changing needs of frontline work. As such, the manual and policies should undergo an annual review following a similar process and input as occurred during the policies’ development to continue to further the office’s mission and ensure the clients’ needs are met.

SPECIFIC TYPES OF POLICIES AND PROCEDURES

Office policies and procedures should address personnel matters such as staff recruitment, job descriptions and obligations, personal leave, family leave, remote/hybrid work schedules, pathways to promotion, and furtherance of professional development, including performance evaluations. Policies should also clearly outline the duties and responsibilities of the supervisors and the hierarchy of staff.

The nature of this work requires children’s law offices to prioritize self-care and provide a safe space for staff to be vulnerable. Additionally, the organization must normalize the importance of asking for or accepting help when it is offered by a manager or colleague. There must be written expectations of staff for professional development and sustainability. National standards and evidence-based research must shape the development of office policies. Supervisors should encourage staff to participate in national, state, and local training, find areas to present themselves, pursue professional

certifications, and network in related fields. Self-preservation training to promote a culture of collective workforce wellbeing, self-care, and sustainability should be mandatory for all staff. Such training promotes accountability amongst colleagues, assists in recognizing when coworkers need extra care, and encourages collaborative work to prevent burnout and preserve the workforce.

There are many other key issues on which to have written and well-articulated policies to facilitate the ongoing mission and values of a children's law office. For example, offices should have policies outlining expectations and obligations around recordkeeping and data collection and tracking. Such data collection can be beneficial to securing and maintaining funding, as well as measuring outcomes. Discussed more fully in Chapter II.C.8, some examples of data collection include court appearances, client attendance at hearings, frequency of hearing type, client meetings, client visits, placement changes, placement types, and length of time in care. Office policies must also include provisions regarding client confidentiality and file maintenance and storage that comply with state and federal regulations.

A children's law office policy manual must include policies around client representation and engagement. These policies must be developed through a trauma-informed lens and with the assistance of the population served, bearing in mind quality legal representation and professionalism. The office must have clear standards, following any state regulations or laws, regarding client visits, client counseling, and clients' presence in court. Offices should develop policies around gathering feedback from clients on their opinion and lived experience of their engagement in their cases. Policy manuals might also include information about adjacent areas of practice such as resources and agencies involved with public benefits, mental health services, special education, and other social services. The policy manual should include any referral processes to other agencies and how to access these benefits.

Policies and procedures of a children's law office should be designed and written to serve the needs of the practice and tailored to fit the mission, culture, workforce, type of representation, and type of office. Employee handbooks and policy/practice manuals will thus vary significantly and there is no one right way and no one comprehensive model. The outline below is simply a list of possible content areas to consider and is not meant to be all-encompassing, but rather a place to start.

Organizational Information

- Mission and Vision
- Culture and Values (DEIB, antiracism, cultural humility, workforce wellbeing/self-care, client-centered, trauma-informed, etc.)
- Structure/Organizational Chart

Standard Administrative/Personnel Information

- Workplace Conduct
- Compensation, Pay Periods
- Benefits and Insurance (health/dental/mental, life, disability, retirement, etc.)
- Holidays, Leave, Time Off
- Travel/Expense Reimbursement
- Workforce Wellbeing and Supports
- Communications Expectations (email, phone, internet, social media, etc.)
- Use of Technology and Equipment (office-provided cell phones, laptops, monitors, VPNs)
- Hours/Attendance
- Remote/Hybrid Work

- Emergency/Disaster Preparedness
- Recruitment, Hiring, Promotion, Pathways to Leadership, Retention
- Performance Reviews, Supervision, Feedback Mechanisms
- Training in Furtherance of Office Values/Culture (bias, antiracism, self-care, etc.)
- Grievance Procedures
- Resignation/Termination

Policies and Procedures Specific to the Work of the Office

- Position Descriptions, Duties, Roles, and Responsibilities
- Workload/Caseload
- Client Engagement and Representation Expectations
- Data Collection, Information Management, Case Documentation, Retention
- Confidentiality and Privilege
- Professional Boundaries
- Conflict of Interest and Coverage
- Training Expectations Specific to Staff Roles, Continuing Education, Professional Development/Certifications
- Any Other Specific Policies and Procedures (referrals to services and supports; collection of client feedback; case transfer processes; multidisciplinary team staffing; mentoring relationships and responsibilities; legislative/policy advocacy guidelines; coordination with clients' other attorneys/cases (dual-status, civil legal aid, immigration, etc.))

Special Requirements/Prohibitions Specific to the Office Type/Programs (As Needed)

- Rules around nonprofit lobbying
- Government employees accepting/reporting gifts
- Independent contractor or pro bono attorney considerations
- Guidelines for volunteers and interns

Employee Acknowledgement Form

Children's law offices may want to consider including a signature page or form that employees must sign when they start employment (and periodically throughout employment) acknowledging that they have read and are continuously aware of, and adhere to, office policies, procedures, and expectations.

A.4: Office Space and Remote Work

James Walsh, JD & John Walsh, JD

This chapter addresses creating a space where the important work a children's law office performs gets done. The office is often the place where the team comes together and the culture is built, so it is vital to approach it with intention and care.

WHETHER TO ESTABLISH A PHYSICAL SPACE

The need for physical office space — including configuration, square footage, and design — varies based on the children's law office's needs. Once upon a time, this would not have been a debate. Lawyers needed an office. It was where they kept their files, computer, and supplies and where support staff worked. The world has changed, but in different ways depending upon where the children's law office is located. Managers and directors must examine the specific needs of their office before signing that lease.

In many parts of the country, the cost of space has become prohibitive. The traditional configuration of a law office can and should be adapted to the office's individual needs. If attorneys are in court four days a week and are rarely in their offices, consider whether paying for that empty space is worth the investment. Consider shared offices or a modern workspace with individual workstations. At one time the need for private workspaces where sensitive conversations could be had would have prohibited such arrangements. However, the cell phone as a primary means of communication — especially for children's lawyers — has given way to email, text, and messaging apps. The modern workforce uses the desk phone and the office less and less. The cell phone and laptop are the new office; the clients served by children's law offices rely on their phones for texting more than talking. Some staff work more traditionally and need an office (e.g., appellate staff) and other staff may just need a place to charge their laptop and check their emails in between court and meetings. Being flexible can lead to cost savings in rent that could be applied to more important expenses.

THE PHYSICAL SPACE

Once it is determined that a physical office is needed, when establishing that space, children's law offices should consider:

- » Location (proximity to the courthouse and/or the community; accessibility by public transportation; available and affordable parking)
- » Private meeting spaces for confidential client interactions
- » Adequate conference room space for trainings and meetings
- » Wellness spaces for nursing mothers and/or staff experiencing secondary traumatic stress
- » Waiting room that creates a professional and welcoming atmosphere

CHILD-FRIENDLY SPACE

Children's law offices should reflect the office's mission and appeal to child clients of a variety of ages. A child-friendly space is one that will make a child feel calm and respected when they enter and is clean, modern, welcoming, and fun. Offices should include activities for children of all ages in case they need to wait — e.g., crayons and coloring books, board games, or game consoles. Interview rooms should be designed with the knowledge that some children may have to revisit some traumatic events therein. Consider including comfort items and handheld "fidget" items to handle while they

talk. Children’s attorneys’ mission is to ensure that children are respected and heard. Try to design the office space with that in mind.

REMOTE AND HYBRID WORK OPTIONS

Remote work is seen by potential staff as a benefit. Children’s law offices that struggle to recruit and retain quality staff should consider whether remote work may serve as recruitment tool and a way to prevent burnout.

Children’s law offices must create clear expectations around who can take advantage of remote or hybrid roles and why. Some offices can be flexible in this regard and others with unionized work forces perhaps less so. Things to consider when offering remote work include:

- » Can remote work be implemented in a manner that is equitable to all staff?
- » Is there adequate hardware available to maintain remote work?
- » Is there a plan for cybersecurity if staff are remote and accessing office servers and client files?
- » Will the lack of office space affect the quality of advocacy provided to clients?

Remote work, for all its advantages, comes with the potential cost of a loss of teamwork which can be crucial to the prevention of burnout among staff. The loss of the day-to-day, in-office camaraderie cannot be overstated, just as the convenience of working remotely to staff cannot be either. Managers and supervisors need to be proactive and creative in developing ways to promote staff engagement and connection in a remote work environment. When making the determination to offer remote or hybrid work options, consider using the cost savings from rent to budget for team-building events that otherwise may not have been affordable. Weekly team meetings, staff social get-togethers, “lunch and learn” trainings or webinars, and national conferences are all opportunities for team building.

More crucially, onboarding new staff in a remote environment creates different challenges. Consider having new staff shadow senior staff in person as part of the onboarding process. Making in-person team meetings a requirement for new staff can also overcome the feeling of disconnectedness that occurs when new staff is working remotely.

The office work environment can be an important part of building a successful children’s law office. The right workspace, created with intention and care, can be a real benefit to the many other priorities with which every children’s law office must contend.

A.5: Administrative Infrastructure

Trenny Stovall, JD & Chandra P. Wilson, JD

As is true of any successfully functioning legal practice, the specialized practice of child protection law should be deliberately structured. Whether a stand-alone law practice, or a division within a governmental agency, there are some administrative infrastructure requirements that cannot be overlooked. Primarily, an administrative infrastructure should focus on three areas: personnel, foundation, and administration. In a practical sense, these areas will overlap. Competent and skilled personnel and a solid foundation of resources, systems, and processes, operationalized by a thriving administration, allows for effective legal service delivery. This chapter discusses the essential departments needed for a robust administrative infrastructure, including Administrative Support, Human Resources, Information Technology, Operations Management, and Finance. Although this chapter contemplates the minimum infrastructure needed for a children's law office, it recognizes that with additional funding may come additional areas of support, such as legal support (paralegals) or resource development.

ADMINISTRATIVE SUPPORT

Adequate administrative support is a cornerstone of any functional law practice. It is especially important in children's law offices, where the caseloads are often high, client interaction can be unpredictable and often occurs in the field or other remote locations, and contact with the public may involve providing customer service to people in crisis situations involving children.

Like any high-volume law practice, competent administrative and paraprofessional support is integral to the effective delivery of legal services in child protection matters. Administrative support staff provide logistical coordination for case investigations and client contacts and assist with litigation preparation and ongoing case management. For example, administrative support tasks may include:

- » Opening and closing cases
- » Conducting preliminary research for conflict checks
- » Setting up, maintaining, updating, closing, and archiving paper and electronic case files
- » Keeping accurate lists of current and former clients
- » Answering and directing telephone and email inquiries to the appropriate staff
- » Researching and providing external referrals
- » Assisting clients and family members
- » Providing customer service to members of the public seeking assistance

HUMAN RESOURCES

Human Resources (HR) personnel are essential to the administrative coordination of hiring, retention, termination, employee engagement, compensation and benefits, and performance management. Not having a trained HR individual in place could result in financial, legal, and/or ethical liability for the office.

INFORMATION TECHNOLOGY

Children's law offices should have the capacity to navigate the constantly evolving landscape of information technology (IT) and its impact on today's work environment. Accessible and well-informed IT support is critical to ensuring access to reliable virtual platforms for court hearings, client interac-

tions (including social media), case investigations and preparation, and stakeholder meetings. Other tasks delegated to IT personnel may include maintaining electronic databases, providing access to electronic resources and equipment, and ensuring that the office technology remains up to date. In addition to IT personnel, children's law offices must consider what kind of case management system/software and data-tracking methods they will use. The ability to accurately and consistently collect data on clients and case outcomes is critical to continuous quality improvement efforts and should be an essential infrastructure component of every children's law office.¹

OPERATIONS MANAGEMENT

Coordination of operational functions within a children's law office is essential and may include:

- » Managing capital resources such as office supplies, furniture, physical space, computers, and other equipment
- » Ensuring that the office complies with operational mandates, including those of any parent/oversight agency or organization, if applicable
- » Maintaining the infrastructure to support effective legal service delivery, such as ensuring access to legal research tools and resources and structuring a purchasing and reimbursement process to manage expenses associated with client representation and ongoing advocacy
- » Publishing current office policies and procedures and posting labor law and other workplace compliance notices

Although this is not intended to be an exhaustive list of potential operational functions, it does contain many elements of the groundwork necessary to promote effective service delivery.

FINANCE

The finance department or function is necessary for ensuring good stewardship and appropriate allocation of the often-limited resources of a children's law office. The administrative team ensures that the rules and policies surrounding funding and budget management are followed. They are responsible for processing financial transactions and maintaining records. Finance is also a vital partner when developing diverse avenues of funding, including charitable contributions or in-kind donations, grants, or other non-traditional methods of fundraising.

CONCLUSION

Because many children's law offices have limited resources for support staff, administrative personnel may handle multiple functions. For example, the person who monitors the telephone and email accounts may also have some responsibilities for IT troubleshooting or managing capital resources. In those instances, staff members must have the requisite knowledge and training to effectively manage these responsibilities to ensure the efficient administration of the law office. Regardless of the roles assigned, the administrative infrastructure discussed above is an essential part of the foundation of a successfully functioning children's law office.

1 See *also*, Chapter II.D.8: Quality Review and Outcome Measures.

A.6: Community Engagement

Jody Leibman Green, JD & Betsy Kramer, JD

DEVELOPING COLLABORATIVE RELATIONSHIPS TO SUPPORT PRACTICE AND POLICY GOALS

Building an effective children's law office or practice goes beyond individualized client advocacy. Creating a network of like-minded advocates, child protection stakeholders, the bench, and local policy-makers can further important efforts and changes that not only support children and families, but can also improve systems, processes, and laws impacting those most affected by the child protection system. The most successful children's law offices engage in collaboration with others to:

- » Support or further needed legislative and policy changes
- » Improve the client's experience within the court and child protection process
- » Exchange information with service providers and organizations working to support a common mission or client base

BENEFITS OF ESTABLISHING, CULTIVATING, AND DEEPENING CONNECTIONS WITH COMMUNITY MEMBERS

- » **Timely identifying issues and/or trends affecting practice:** Practitioners in different jurisdictions may experience widely varying conditions; understanding others' experiences, including small or rural court systems versus large or urban settings, can ensure a comprehensive understanding of the larger child protection landscape and alternative approaches to advocacy. This allows for collaborative problem-solving as well as sharing innovative practice tips across jurisdictions.
- » **Shaping child protection-related policy and legislation:** Developing a deeper understanding of issues beyond the office's own jurisdiction will bolster efforts to successfully enact reforms to better serve children. Building these relationships also offers the opportunity to create a joint agenda or build a coalition with other advocates.
- » **Sharing resources with other advocates to support clients:** Working relationships with service providers and experts in related fields such as mental health, disability, housing/eviction, family law, education, or immigration will help clients more easily access needed supports. These relationships may also open new pathways for advocating on behalf of individual clients.

CREATE A COMPREHENSIVE AND BROAD NETWORK OF COMMUNITY PARTNERS

The law office's efforts to create their network should include outreach to:

- » Child protection stakeholders
 - Attorneys and advocates for parents
 - Judicial officers and other court partners
 - Leadership at the child protection agency
 - Agencies and community-based organizations serving child protection-involved families, including direct service providers and other child advocacy nonprofits
 - Individuals with lived experience in the child protection system
- » Constituent groups, including other child advocacy organizations and individuals

- » Local news media outlets
 - In addition to traditional outlets such as newspapers, connect with influencers within the online, blogging, and social media communities to reach more people
- » Governmental leaders, including local, state, and national legislators
- » Local entities, including the board of education, health and mental health departments, probation department, housing authority, bar association and others
- » Nationwide groups such as the National Association of Counsel for Children and the American Bar Association

BE STRATEGIC IN REACHING OUT TO COMMUNITY MEMBERS TO DEVELOP WORKING RELATIONSHIPS

Tactics to accomplish this include:

- » Participate in relevant workgroups:
 - Ask other practitioners to share information regarding new and existing workgroups; establish regular meetings to exchange information and discuss current issues in the field
 - Sign up for email listservs and conduct research to identify groups not currently known to the law office
 - Join identified/prioritized workgroups, both local and state or national, including delegating participation and attendance to interested staff throughout the office
- » Schedule informal meetings with lawmakers, either in person or remotely, to introduce the office's mission and open the door for future legislative or policy advocacy collaboration
- » Engage in formal legislative advocacy by:
 - **Tracking bills throughout the legislative cycle:** utilize local and national online resources to closely monitor child protection-related bills as they move through the legislative process
 - **Considering the impact of active legislation and weighing in on needed amendments:** Communicate with legislators, bill authors, and/or sponsoring organizations to convey suggested amendments and express support, concerns, and/or concrete changes to improve bill language as needed
 - **Offering bill ideas to legislators to effectuate needed change:** Reach out to legislators to suggest needed changes to the law governing child protection in the jurisdiction; offer to act as an informational resource or to assist with drafting potential bill language as sponsor or co-sponsor with other interested organizations

KEY CONSIDERATIONS

Although collaboration should be a high priority for a children's law office, there may be instances in which the office's position conflicts with that of other organizations. In these situations, the office's independence must come first. Also, child protection legal practice in most communities includes solo practitioners or very small law firms that may have limited resources. Children's law offices should share resources, including training and library materials, to elevate legal practice and improve outcomes for all children and families involved with the system.

CONCLUSION

Children's law offices should prioritize becoming active participants and leaders in local, state, and national efforts impacting child protection. Collaborating with other organizations and governmental agencies to become a recognized leader in the community on child protection issues will expand the office's visibility and allow it to gain credibility and become known for its expertise. Ultimately, these efforts can lead to the furtherance of meaningful change within the child protection system, and most importantly, for children and families.

A.7: Communications

Stephanie S. Franklin, JD & Louis (Louie) Gasper, BA

COMMUNICATIONS AND MEDIA STRATEGY

A forward-thinking children's law office integrates communications and media strategy into its long-term strategic plan. Developing this strategy requires intentional planning for communications, storytelling, marketing, and social and traditional media, which can bolster advocacy and promote policy changes that positively impact children, youth, and families.

To develop a communications and media strategy, an organization must ask itself several key questions:

- » Why is it necessary to develop a communications and media strategy?
- » What are the macro- and micro-level goals of the communications and media strategy?
- » How does the communications and media strategy align with the organization's vision, mission, values, and goals?
- » Which method(s) of communication will have the most impact?
- » What resources are necessary to achieve the office's communications and media goals?
- » How will the success or impact of the strategy be evaluated?

Furthermore, organizations must develop the micro-elements to support their larger communications and media strategy. In each communications/media situation, the children's law office should determine:

- » What is the message it wants to communicate?
- » What is the purpose of communicating this message? How will that purpose be conveyed to the target audience?
- » Who is the target audience? Are there multiple target audiences? Which communications can be general? Which should be tailored?
- » What is the timeline for this communication? Is frequency important? If so, how often should this message be communicated?
- » What communications outlets, methods, or practices will the children's law office use?
- » Are there people who should or may be responsible, accountable, consulted, or informed in implementing the communications? How can these personnel and/or stakeholders be involved in the planning process to maximize communications impact?

For example, if the children's law office is developing a campaign about an array of services for prevention, it could use the questions above to come to some conclusions:

- » The target audience is parents at risk of child protection involvement
- » The timeline is six months
- » The office will use email, social media, and flyers, and will engage a couple of representative parents to help craft an authentic message

SOCIAL MEDIA AND PUBLIC RELATIONS

Top communications methods typically include email messaging, social media, website pages and updates, flyer dissemination, infographics, fact sheets, brochures, press releases, op-eds, elevator speeches, surveys, blogs, articles, public service announcements, videos, and webinars.

Communications methods can be created simultaneously as a package when thinking about a campaign, important topical area, or other aspect of the children's law office's communication. By identifying all the communications tools, messaging, and strategies the children's law office wants to utilize through a project management lens, communications can be impactful and streamlined. For example, if a children's law office builds out a list or template of outreach methods they want to use, this could allow them to identify areas where language can be copied, stakeholder reach can be maximized, and roll-out of multifaceted communications can be done with ease. Using a project management perspective to concisely lay out and assess all the methods that they definitely, likely, or may use, based on the communications goals can help children's law offices realize the potential crossover of efforts and their larger communications vision. With this streamlining process, every tool should still engage the optimal target audience.

A great starting point for media messaging is assessing current social media activity, content curation and posting, social media engagement metrics and analytics, and overall strategy. There are many important factors when thinking about a children's law office's online presence:

- » Do their social media standards align with their mission, vision, and strategic plan or supplementary guiding organizational documents?
- » How can they develop content that uplifts and highlights lived experience authentically, meaningfully, and with the most dignity to the youth or family?
- » How have they assessed usage or capacity/potential of using social media platforms (e.g., Twitter, LinkedIn, Instagram, Facebook, and YouTube)?

SOCIAL MEDIA PLATFORMS¹

X/Twitter is a popular medium to share breaking news and newsworthy issues, digest bite-sized content, and communicate directly with the children's law office audience in real time.² Videos and images tend to stand out best when familiarizing users with the vision and mission, but a well-timed or especially clever post works well if content is aligned with trending topics.

Each **LinkedIn** post essentially serves as a billboard³ for the children's law office's mission and vision, so offices must keep posts consistent, clear, and tailored to what the audience needs. LinkedIn posts that contain images, on average, net double the engagement that simple text posts get.⁴

On **Instagram**, diversity in posts with consistency reigns supreme for organizations; vivid photography, clever trend usage, and selfie-style videos that speak directly to the audience can all engage the user. A cohesive theme and regular content can make the algorithm happy. Children's law offices can consider creating both Instagram stories and reels to keep audiences engaged.

Facebook is all about starting a conversation. Children's law offices can focus content production on short videos and bold headlines to attract an audience. For Facebook groups, interactive content and communal experiences such as live streams and polls can get people interested and more engaged.

YouTube is a video-only content platform. Posting both long- and short-form video content can work well for representing the office's mission and vision. Children's law offices should consider both

1 Note: These summaries about social media platforms are current as of publication. Law offices are encouraged to research current platform trends, which are always emerging.

2 Adobe Express. (2022, May 9). *When is the best time to post on Twitter?* <https://www.adobe.com/express/learn/blog/best-time-to-post-on-twitter>.

3 Adobe Express. (2023, August 22). *LinkedIn background photo ideas and inspiration.* <https://www.adobe.com/express/learn/blog/linkedin-background-photo>.

4 Adobe Express. (2022, August 10). *The eight top social media sites you should prioritize in 2023.* <https://www.adobe.com/express/learn/blog/top-social-media-sites>.

education and entertainment when creating content. Other social media outlets to consider may be *Snapchat* or *TikTok* for short video-related social media engagement.

PITCHING TO MEDIA OUTLETS

Depending on the importance and relevance of the message, the children’s law office may want to explore wider options to engage the media. This may include “pitching”⁵ to media outlets — i.e., reaching out to journalists (and building relationships with them) to present an angle and spread awareness of a story. Consider factors such as current affairs or interesting angles to evaluate if a story is newsworthy. Personalize media outreach, write a captivating email line, develop an opening lead (beginning to the pitch), demonstrate story importance related to that specific media outlet’s audience, consider any necessary supplementing resources (e.g., a link to a similar story within a jurisdiction or related media content) — and keep it as brief as possible.

Pitching, when done effectively, can reach television, radio, and digital/print news audiences. When determining newsworthiness, children’s law offices should consider the publication level. For example, a statistic highlighting a positive trend for child protection law in the office’s city may not be of interest to national or regional outlets but may make a great pitch when framed correctly for an article in the local paper or a segment on a local or community television/radio station. Local, community, and public radio and television stations may be ideal targets, as well as print/digital news publication outlets that are local or industry-specific. However, the target audiences and story angles should be assessed on a case-by-case basis for maximum impact.

MEDIA NARRATIVES AND STORYTELLING WITH CLIENTS

Increasing positive media narratives and interrupting those that are harmful (especially when misleading) is an important practice for children’s law offices. Engaging people with lived experience in storytelling (especially those who are or have been clients) can be a great way to add to the necessary positive narratives for children’s law offices. To engage people with lived experience successfully⁶, consider the following:

- » Empower persons with lived experience through training in strategic sharing⁷ (determining in advance what information they feel comfortable sharing publicly and to what degree)
- » Apply an equity lens for engagement, including considering how the children’s law office can maximize opportunities for engaging and including diverse populations with lived experience
- » Ensure that anyone with lived experience understands what they are being asked, that there is agreement at all stages of how they are portrayed in any communication, and that space is included for their vetting and feedback prior to publication/dissemination
- » Prepare persons with lived experience for engaging with media through meetings to transparently discuss expectations and desired media outcomes for their story, as well as by priming them for the interview/media engagement to allow them an opportunity to think through potentially posed questions, responses, and talking points
- » Advocate for programmatic compensation commensurate with the ask and deliverable

5 Indeed. (2023, February 3). *How to Write a Media Pitch (With a Template and Example)*. <https://www.indeed.com/career-advice/career-development/pitching-to-the-media>.

6 See also, Chapter II.C.3: Engaging Lived Experience Experts and Staff.

7 Youth Engaged 4 Change. (n.d.). *Strategic Sharing: How to Make Smart Choices When Sharing Your Story*. <https://engage.youth.gov/resources/strategic-sharing-how-make-smart-choices-when-sharing-your-story> (last visited Oct. 9, 2023).

A.8: Funding

Scott Hollander, JD & Rebecca E. May-Ricks, JD, CWLS

INTRODUCTION

Children's law office funding is often uncertain and can fluctuate greatly from year to year — for better or worse. Offices should seek to stabilize revenues through a well-structured fund development plan which will vary according to the type of office (e.g., government agency v. nonprofit) and the funding needs, strengths, and capacity of the organization and the community.

Adequate funding allows children's law office staff to provide high-quality representation by reducing the number of clients each staff member represents and/or increasing the amount of time devoted to each client. Adequate funding also allows children's law offices to offer competitive salaries, which in turn can increase staff job satisfaction, reduce staff turnover, and benefit clients through continuity of representation. At the most basic level, children's law offices require sufficient funding to allow staff to represent clients, travel to home visits, cover litigation expenses, and pursue outside training opportunities. Additional fundraising often is needed to develop innovative practices and programs or expand representation.

Children's law offices should evaluate their current fundraising practices and the additional fundraising potential within each of the primary fundraising categories below — while keeping in mind available staff and board time and capacity, including whether certain fundraising activities can be better accomplished with dedicated fundraising staff or by outsourcing.

A fundraising plan should include:

- » An organizational chart with generally defined roles, duties, and responsibilities for the board of directors, the administration and, if applicable, fundraising staff
- » A multi-year timetable for implementation and projected revenue

Other considerations may include:

- » Whether the organization will accept sponsorships or donations from specific types of companies that could bring controversy to the agency or to a fundraising campaign or event
- » Developing an associated nonprofit "friends of" agency that can accept charitable donations to support a government office that cannot otherwise accept donations

The below list of funding and fundraising opportunities is intended to offer a menu of considerations children's law offices may choose from in pursuing a few (or more) primary funding approaches. Every office will have a different fundraising strategy based upon its history, current funding sources, which funding streams seem best suited to add to their funding success, and the differences in fundraising for government offices.

Regardless of office size or type, the goal of each children's law office should be to build a robust, multi-dimensional, and strategic fundraising program that can better sustain the advocacy work of that office. Children's law offices should stay informed of potential new ways to obtain funding. Federal Title IV-E reimbursement and the availability of pandemic-related CARES Act, PPP, and American Recovery Plan funds were not existing funding sources until the few years leading up to publication of this chapter. Networking with other children's law offices and human services nonprofits may be helpful ways to learn of new areas of funding.

FUNDRAISING ACTIVITIES THAT MAY NOT REQUIRE SEPARATE DEVELOPMENT STAFF

Government Contracts/Funding

Many children’s law offices have contracts with either the court or state or local government to provide legal representation to children, especially in cases where state law requires representation of children in dependency cases. Contracts may be based on a per-client, hourly, or flat rate. Children’s law offices and the government funding source should clarify expectations of tasks, hours, and caseloads to ensure adequate representation and compensation.¹

To properly leverage funding, offices must understand the different percentage rates of reimbursement that various government funding streams pay to state or local government for advocacy services.² Other sources of government funding may include government grants from specific funding sources, such as Victims of Crime Act (VOCA) funding, Legal Services Corporation (LSC), IOLTA, Social Services Block Grants (SSBG), Temporary Assistance to Needy Families (TANF), Medicaid, or temporarily available government funding sources (e.g., previously temporarily available CARES Act or the American Recovery Plan funds).³ Additionally, indirect assistance may come from training, data, or other supports available through the federal Court Improvement Project (CIP) as implemented by the relevant state.⁴

Foundation and Corporate Grants/Support

Children’s law offices can seek a wide range of potential foundation and corporate grants and support. Grants are either unrestricted (for general operating expenses) or, more commonly, restricted (for a particular project or purpose). Children’s law offices should consider both short- and long-term strategies when pursuing restricted grants, including whether the grant will fund an existing specialized program or be used to start a new project.

Children’s law offices should develop a plan to sustain new projects and newly hired staff beyond the initial grant period, keeping in mind that most grants last one or two years, and many foundations will not renew grants beyond that time. Some foundations will not fund legislative or policy advocacy, and many are reluctant to pay for government-mandated services, including legal representation required by statute or court rules. Those same foundations may fund enhancements to core legal representation, such as targeted advocacy around education, children with disabilities, LGBTQIA+ youth, behavioral health, etc. Many foundations only fund 501(c)(3) nonprofit organizations and may not fund the work of government law offices or private attorneys or law firms representing children. This is where establishing an associated nonprofit “friends of” agency might create eligibility for foundation funding.

It can be tempting to start a new project because there is new funding available. To avoid mission drift, children’s law offices should ask whether the new project is one of the top two or three initiatives the office would choose to pursue absent an identified funding source. Children’s law offices should have a clear fundraising strategy and plan that outlines those priorities before deciding what foundation funds to seek. That process can involve a detailed plan or it can be as simple as contemplating

1 See the worksheets on pp. 29–45 of the Pennsylvania Standards of Practice for Parents Attorneys, Guardians Ad Litem and Legal Counsel Practicing in Pennsylvania’s Child Dependency System (<https://ocfcpacourts.us/wp-content/uploads/2020/06/August-2015-Updated-typos-Standards-of-Practice21.pdf>) as a possible way to calculate and discuss tasks, times, and caseloads in the relevant jurisdiction – and negotiate funding levels accordingly.

2 For example, federal Title IV-E reimbursement pays 50% of costs for income-eligible families. Other government reimbursements may pay a higher percentage or may pay for a more broad or narrow group of clients.

3 See <https://legalaidresourcesdotorg.files.wordpress.com/2021/07/grants-matrix.pdf> for descriptions of the applicability and eligibility for several of these funding sources.

4 CIP funds could pay or defray costs of training or technology or fund the collection of data and reports demonstrating the impact and outcomes of advocacy by a children’s law office.

what the organization would prioritize with an unexpected million-dollar grant for general operating costs with no restrictions. The goal is to develop a case for funding that outlines priorities, needs, and impact, and that can be part of the persuasive case children's law offices make to foundations.

Keep in mind that foundations often begin new grantee relationships with smaller grants. That helps to establish the relationship and see how the initial grant impacts the work and client outcomes before considering a larger grant in subsequent years. Since nearly all foundation grants require outcome measures, children's law offices should identify realistic, achievable outcomes that the organization has the data and capacity to track.

Foundation support does not come simply from submitting an excellent grant proposal. Most grants of any significant amount require building relationships with foundation staff and understanding how the office's case for funding fits that foundation's priorities and investment areas. If a children's law office is not starting with those existing foundation relationships, consider using board members to help make connections or hiring a consultant respected by the foundation community in the beginning stages of grant efforts.

Fee-Generating Cases

Some children's law offices provide representation in types of cases where attorney fees may be awarded to a prevailing party (e.g., special education proceedings, civil rights cases, certain benefits cases). Deciding whether to pursue fee-generating representation must be consistent with and driven by the office's mission and strategic plan rather than by a funding need. Another consideration of fee-generating work is whether to offer sliding fee representation to families who seek services but do not qualify for court-appointed representation.

Federal Title IV-E Funding

A reinterpretation of federal Title IV-E created a new path for the funding of legal representation of children and parents in many child welfare cases.⁵ The program is meant to supplement children's legal services, and it should be an exception to the general funds offset process.⁶ State legislatures should not reduce the budget of the children's law office by the amount received through IV-E funds, as Title IV-E has matching requirements.⁷ The receiving children's law office can use the IV-E money for enhanced child representation services, such as creating a new multidisciplinary system of representation, expanding the number of attorneys on staff, increasing support staff, or increasing or enhancing technological capabilities.

In seeking such funds, children's law offices should collaborate with the Title IV-E agency (generally, the state's child protection agency), the legislature, and if available, the CIP or other similar judicial body who can assist. There are consulting companies with agents who are knowledgeable about IV-E requirements who can act as liaisons and assist in the contract creation process. There must be a written contract or MOU between the state's Title IV-E agency and the children's law office in order for a claim to be made.⁸ Only the Title IV-E agency can submit the request for reimbursement, so a children's law office must collaborate and contract with the IV-E agency in their state.

5 U.S. Department of Health and Human Services, Administration of Children and Families. (2021, January 14). *Utilizing Title IV-E Funding to Support High Quality Legal Representation for Children and Youth who are in Foster Care, Candidates for Foster Care and their Parents and to Promote Child and Family Well-being*, Log No: ACYF-CB-1M-21-06. <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2106.pdf>; Children's Bureau. (2020, July 20). *Technical Bulletin: Frequently Asked Questions: Independent Legal Representation*. https://www.acf.hhs.gov/sites/default/files/documents/cb/technical_bulletin_faq_legal_representation.pdf. See also, Hardin, Mark. (2019, February 25). *Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview*. American Bar Association. https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/.

6 See *Technical Bulletin*, *supra* note 5.

7 45 CFR § 1356.60; 45 CFR § 1356.68.

8 See Hardin, *supra* note 5; *Technical Bulletin*, *supra* note 5.

There are also Title IV-E funds available for training the attorneys who work for the children’s law office, which are distinguishable from the cost of representation.⁹ Children’s law offices should seek to avail themselves of the training as part of their contract.

Despite the collaboration and contracting between the IV-E agency and the children’s law office, the top priority is high-quality independent legal representation. The contractual relationship should make clear and certain that the children’s law office will maintain independence in its legal representation.

FUNDRAISING ACTIVITIES THAT MAY REQUIRE SEPARATE DEVELOPMENT STAFF

Individual Giving

One key element of children’s law office fundraising viability is individual donors who understand the importance of the office’s work and likely will provide support year after year. The coordinated efforts needed to cultivate individual donors who potentially make significant contributions can be labor intensive. Children’s law offices should share their case for funding with board members and other key donors and ask if they might reach out to their contacts for support. Pro bono attorney volunteers may be willing ambassadors to enthusiastically share the impact of their volunteering and the office’s work with their personal and professional contacts. Board members and other donors may have employers with matching programs for charitable giving or that participate in United Way or other campaigns that allow donors to designate a specific charity. Contributions to government law offices or private attorneys or law firms representing children will not be considered tax-deductible unless made to a nonprofit “friends of” organization that supports the government or private law office’s work. This is an important consideration to keep in mind for individual and planned giving strategies and special events.

Planned Giving and Donor-Tax-Advantaged Contributions

Some donors may be willing to make tax-advantaged gifts such as donating appreciated stock to eliminate any income tax on the gain or donating some portion of their required minimum distribution (RMD) amounts from IRAs (starting at age 73 in 2023 and 75 in 2033) which otherwise would be subject to income tax. Donors also may wish to include children’s law offices in their estate planning through direct or contingent bequests in a will or living trust, establishing a charitable remainder trust, charitable lead trust or charitable gift annuity, or naming the organization as beneficiary or contingent beneficiary of either a life insurance policy, an IRA, or other retirement account. Implementing planned giving or donor-tax-advantaged gift strategies could start with outreach to current or former board members or other loyal donors most invested in the office’s success and impact. The organization, and its donors, should consult with attorneys/accountants before starting or disseminating information about a planned giving program or creating a brochure.¹⁰

Special Events

Some organizations raise significant funds from events — especially when events generate high revenues from sponsors such as board members’ employers or companies or law firms that provide pro bono support. Events can be excellent vehicles to raise awareness and gain new supporters. Events also can require tremendous investment of staff time and outlay of costs for planning, securing auction items, arranging the venue, catering, etc. It sometimes can take a few years before events become established enough to generate more revenues than total expenses, especially when

⁹ See Hardin, *supra* note 5.

¹⁰ High-level descriptions of these planned giving options can be viewed in this 2021 KidsVoice planned giving brochure, available at: https://kidsvoice.org/uploads/resource-media/Planned_Giving_2021_Final.pdf.

factoring in staff time needed to plan and execute. The decision whether to include or continue special events as part of a fundraising strategy should consider these costs and benefits, plus the value of staff time.

Communications/Marketing/Social Media

Newsletters, email blasts, social media messaging, targeted fundraising appeal letters, annual reports, etc., all help to engage, educate, and retain existing donors and funders and attract new supporters. Deciding who will manage the fundraising communications and social media content depends on the office's fundraising plan and whether there is a budget to hire part-time or full-time marketing and communications staff. Offices may consider assigning an existing staff member responsibility for social media posting. Social media fundraising efforts can be effective, especially with peer-to-peer individual giving campaigns.

FURTHER CONSIDERATIONS REGARDING GOVERNMENT OFFICE FUNDRAISING

Children's law offices that are state or government agencies likely receive all or most of their funding from the legislature or other governing body. In many cases, grants, donations, or other outside sources of funding are prohibited, or otherwise serve to reduce or replace the amount of money received through the general fund allocation. Therefore, the state agency children's law office must be diligent in making realistic requests to meet the needs of the office and the community being served by its attorneys and staff. This usually starts with a budget proposal, which is subject to changes, suggestions, and questions from other government offices or agencies. Once agreement is reached, a final proposal is created for presentation to the legislature. In most cases, hearings about the budget proposals are held in front of committees of both the House and the Senate. The children's law office agency directors and representatives should be prepared to answer questions from the various committees as well as any questions that come out of the discussion before the full House and Senate. Documentation and statistics are often helpful tools in making a case in favor of funding priorities.

Many legislators may be interested in knowing if the agency receives any grant money or self-generating funds, such as fees charged to clients or awarded by the court. Legislatures may reduce the amount a state agency children's law office receives from the state general fund by the amount the children's law office receives from other sources. Although the state agency children's law office may qualify to apply for some of the funding listed in the previous sections, this possible reduction or replacement of state funds should be considered before pursuing such funding.

CONCLUSION

Analysis of the potential and priorities among the above menu of funding options should involve evaluating the children's law office's current funding and fundraising and the additional potential within each of the primary fundraising categories above. Some offices may not be able to hire a separate development director or fundraising staff due to the size, budget, or operation of the agency. Those offices may opt to have the executive director take responsibility for fundraising, sometimes with the help of outside consultants. The success of any fundraising effort can be largely dependent upon the level of support and participation of the office's board of directors.

B : PEOPLE CULTURE: DEVELOPING, SUPPORTING, AND SUSTAINING THE WORKFORCE

B.1 : Diversity, Equity, Inclusion, and Belonging

Phyllis Walton Stricklan, JD, MSN, CWLS

Children’s law offices, from small practices to large firms, can build workplaces that are diverse and equitable, and where staff feel a sense of belonging. The topic of diversity and inclusion in law firms has been discussed for many years.¹ Yet, the composition of the legal industry remains populated by a largely homogenous racial and gender group. According to the latest ABA National Lawyer Population Survey, 81% of lawyers are White and 62% of lawyers are male and, while both of those statistics have trended down over the past decade (88% White and 67% male in 2012),² diversity remains an issue. For example, the percentage of lawyers who are Black stayed the same between 2012 and 2022 (at 5%).³ Children’s law offices should embrace the idea that “diverse lawyers bring diverse opinions, diverse teams make better decisions, and a more diverse and equitable legal industry drives more innovative and creative solutions.”⁴

DIVERSITY

Diversity means having a range of people with various viewpoints, backgrounds (race, culture, language, gender, ability, sexual orientation, age, etc.), and life experiences. The benefits of a diverse workforce are vast, including increased creativity and effective problem-solving, varied perspectives, enhanced conflict resolution, elevated cultural awareness, and increased team productivity.⁵ When diverse groups interact and learn from each other, chances for lawsuits and charges of harassment and hate speech decrease.⁶ Additionally, “having diversity in multi hierarchical levels of an organization nurtures a deeper compassion that transcends job titles.”⁷

Lived Experience

Dependency and family law practitioners analyze cases, solve problems, and advocate from a broader and keener perspective when they employ and listen to the perspectives of people with lived experience (sometimes referred to as “lived expertise in foster care”). Families who have experienced the child welfare and court systems know what it feels like to be scrutinized, to be expected to comply with others’ requirements, and to move through the system. They know what helped them, what harmed them, and what would have made their experience better. Therefore, these families alone have certain insights regarding the supports and resources that are needed to create thriving families. Accordingly, employing persons with lived expertise as peer advocates, parent partners, lawyers, and all other advocates adds immense value to the team and can keep ideas and processes grounded in reality. Yet the value of these team members can be diminished if the organization does not respect and understand, or even tokenizes, these individuals.

1 See Miki, Sharon. (2023, April 18). *5 Tips and Strategies to Build a Diverse and Inclusive Law Firm*. Clio. <https://www.clio.com/blog/diversity-inclusion-in-law-firms/>.

2 *ABA National Lawyer Population Survey*. (2022). American Bar Association. https://www.americanbar.org/content/dam/aba/administrative/market_research/2022-national-lawyer-population-survey.pdf.

3 Weiss, Debra Cassens. (2022, June 13). *Lawyer Population is Up 6.6% in 10 Years; Percentage of Black Lawyers Remains the Same, ABA Survey Says*. ABA J. <https://www.abajournal.com/web/article/lawyer-population-is-up-6.6-in-10-years-percentage-of-black-lawyers-remains-the-same>.

4 See Miki, *supra* note 1.

5 He, Grace. (2022, November 21). *18 Key Benefits of Diversity in the Workplace in 2023*. [teambuilding.com https://teambuilding.com/blog/workplace-diversity-benefits](https://teambuilding.com/blog/workplace-diversity-benefits).

6 Feldblum, Chai R. & Lipnic, Victoria A. (2016, June). *Select Task Force on the Study of Harassment in the Workplace*. U.S. Equal Emp. Opportunity Comm’n. <https://www.eeoc.gov/select-task-force-study-harassment-workplace?renderforprint=1>.

7 *Why Representation Matters in the Workplace*. (n.d.) Nova. <https://www.thenovacollective.com/why-representation-matters-in-the-workplace/> (last visited Oct. 9, 2023).

Adulthood can also hinder authentic engagement with youth. Adulthood refers to “behaviors and attitudes of adults toward youth based on the assumption that adults know better than young people and are entitled to make decisions for young people without their agreement.”⁸ Authentic youth engagement will be impossible to attain if lawyers do not respect young people as experts on their lives and believe that their perspectives and feelings matter. Despite child protection’s stated purpose to “prioritize youth engagement” and “recognize young people as equal and capable partners rather than service recipients,”⁹ youth in care often feel silenced and disempowered by the system. When organizations only seek youths’ perspectives to support the ideas of those in power or to further their preexisting policy agenda, a destructive form of tokenizing and silencing can occur.

Representation Matters

“You can’t be what you can’t see.”¹⁰ Representation is a matter of each member of a community being seen, heard, and represented in equal measure — be it positive or negative. Representation can provide validation and support, ease communication, and accelerate the building of trust between practitioners and clients. Even with all these benefits, when building a diverse workforce, employers must make employment decisions that are not based on protected characteristics like race, sex, or ability. Capturing the true benefit of a diverse workforce means not just hiring someone for their background, but also their experience, ability, and perspective. Diversity in hiring allows the office to “bring a range of abilities and skill sets that may have previously been untapped in a homogeneous group of employees.”¹¹

Generational Diversity

Many law offices now have five generations of lawyers in active practice. The generations are different because of their life experiences and each generation’s perspective is important, credible, and relevant. Effective multigenerational firms must address, among other things, hiring, retention and workplace culture purposefully. For example, firms might recruit talent by using a variety of digital and in-person methods. Further, firms may incorporate generational differences into workplace trainings to accommodate different learning styles or may decide to communicate important information to employees using a variety of digital, in-person, and paper channels. The point is that each generation can work collaboratively together as well as teach, and learn from, the others.

Interestingly, more than three in four millennials would leave their employer if diversity, equity, and inclusion initiatives were not offered.¹² Millennials and Gen Z generations are demanding both a productive and a supportive professional experience, and executive leadership across employment sectors recognize that creating DE&I initiatives and cultivating a healthy workplace culture have transitioned from “nice to haves” to “musts.”¹³

Finally, seasoned attorneys play a vital role in adding to generational diversity. Senior lawyers are an important part of office culture as well as repositories of office history. They are sources of knowledge, insight, and perspective for junior lawyers on areas of the law, legal strategies, the court and how

8 Bell, John. (2003). *Understanding Adulthood: A Key to Developing Positive Youth-Adult Relationships*. Freechild Project. https://www.nuac.org/articles/pdf/understanding_adulthood.pdf.

9 Child Welfare Information Gateway. (2021, December). *Prioritizing Youth Voice: The Importance of Authentic Youth Engagement in Case Planning*. U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau. <https://www.childwelfare.gov/pubPDFs/youth-engagement.pdf>.

10 Jong, Anneke. (2020, June 18). *You Can’t Be What You Can’t See: How to Get More Women in Tech*. The Muse. <https://www.themuse.com/advice/you-cant-be-what-you-cant-see-how-to-get-more-women-in-tech> (quoting Marian Wright Edelman, Founder and President of the Children’s Defense Fund).

11 Heaslip, Emily. (2022, July 5). *The Ultimate Guide to Diversity Hiring*. Vervoe. <https://vervoe.com/diversity-hiring/>.

12 Gonzales, Matt. (2022, November 4). *Which Employees Value DE&I Most? Society for Human Resource Management*. <https://www.shrm.org/resourcesandtools/hr-topics/behavioral-competencies/global-and-cultural-effectiveness/pages/more-proof-that-dei-programs-matter.aspx>.

13 *Id.*

it operates, and more. Thus, diversity in all contexts is particularly important in law offices, where seeing every side of an issue is essential to high-quality legal representation.

EQUITY, INCLUSION, AND BELONGING

Workplace equity is the concept of providing fair opportunities for all employees based on their individual needs. With equity, an organization will recognize that each employee has varying access to resources and privileges, and those with less access may need more support in order to take fair advantage of opportunities within a given office. For example, to advance their careers and grow with the organization, a children’s law office might invest in a workforce education program providing employees that may otherwise be unable to afford school with this resource. Alternatively, instead of focusing on specific degree requirements in the promotion process, the office can emphasize skills and previous relevant work or life experience.

Inclusion is when an organization creates a workplace where all staff have equal access to opportunities and resources, such as transparent employee policies, as well as inclusive hiring and compensation practices. On the other hand, belonging is something that employees feel — a sense that their uniqueness is accepted and appreciated by their organization and colleagues. Inclusion and belonging are particularly important in multigenerational and interdisciplinary workforces. A recent study found that the “loyalty [that] lawyers feel to their firms and their willingness to work hard is not simply, or even primarily, driven by compensation,” and that “many lawyers, especially younger ones, may now be giving higher priority to intangible factors, such as feeling appreciated and recognized at work, as well as achieving better work/life balance and mental well-being.”¹⁴ Retention may be one of the most important benefits of this organizational realignment.

STRATEGIES, TIPS, AND TOOLS

Every children’s law office can begin to build a workplace that is diverse and equitable. Like any building project, individuals and offices must start somewhere. But think carefully before making this commitment. Be able to articulate the “why” of race equity and DEI work, even if the office is unsure of the “how.” Ensure that the office is not just “virtue-signaling” (the act of sharing an opinion about an injustice but taking no real action — for example speaking out about the plight of marginalized people in a social media post but not taking any concrete action to support those marginalized communities), but instead is making real change related to diversity, equity, inclusion, and belonging (even if just incremental). Organizations might start by doing any or all of the following:

- » Update a mission statement that emphasizes the office’s commitment to diversity, equity, inclusion, and belonging
- » Individually commit to ongoing learning about race equity and social justice. Internal change, where internalized and interpersonal racism and biases already exist, is deeper, slower, and more transformative work
- » Take or re-take the Harvard Implicit Association Test (IAT)¹⁵
- » Learn to call in or call out those in one’s own social circles even when it is uncomfortable. It will be hard to speak truth to power if one does not speak truth to their friends and

14 Thomson Reuters. (2022, January 11). *Law Firms Can’t Just Keep Throwing Money at Growing Talent War: 2022 Report on the State of the Legal Market*. Cision PR Newswire. <https://www.prnewswire.com/news-releases/law-firms-cant-just-keep-throwing-money-at-growing-talent-war-2022-report-on-the-state-of-the-legal-market-301458357.html>.

15 Project Implicit, <https://implicit.harvard.edu/implicit/takeatest.html>.

colleagues. True social justice work looks at equality for everyone, even when they are not in the room

- » Create safe and brave spaces for people to grow and learn, such as book clubs and reading groups, or through employee affinity groups

Law offices that are already making sustainable progress toward race equity and other DEI workplace goals may move the needle further by:

- » **Compiling data:** Employers must first know what their workforce looks like compared to their client and community base. What or who is missing? Are barriers impeding the employment, opportunity, or inclusion of individuals from different demographic groups?
- » **Policy and legislative work**

To develop antiracist and anti-discriminatory practices that work to dismantle historical and systemic racial, cultural, and social biases, offices must ensure congruency among intent, words, and actions. This commitment will take time and energy — and may be exhausting — but will be worth it. There must be an authentic leadership commitment to develop a DEI agenda. Without this, any effort to achieve success will fail. Piecemeal, short-lived initiatives will not work. Diversity and inclusion efforts are a long-term strategy that requires continuous activity.

DIVERSITY, EQUITY, AND INCLUSION RESOURCES

- » *Racial Equity Resources for Child Welfare Systems*, Child Welfare Information Gateway, <https://www.childwelfare.gov/topics/systemwide/diverse-populations/racialequity-systems/>.
- » Sharon Miki, *5 Tips and Strategies to Build a Diverse and Inclusive Law Firm*, Clio (Apr. 18, 2023), <https://www.clio.com/blog/diversity-inclusion-in-law-firms/>.
- » Yolanda Cartusciello, Aric Press, & Danielle A. Taylor, *Multiple Generations in Law Firms: Working Together*, National Association for Law Placement (Mar. 2020), <https://www.nalp.org/uploads/GenerationsSurvey/MultipleGenerationsFinalReportMarch2020.pdf>.

B.2: Recruitment and Retention

Amy Honodel, JD, CWLS & Janice Wolf, JD, CWLS

RECRUITMENT

Given the uniqueness of the child protection legal system, the key to recruitment is developing “pipelines” to bring quality candidates in the door. In so doing, there are several important factors to keep in mind: being flexible with what qualities a good candidate must have, incorporating diversity, equity and inclusion (DEI) strategies into the recruitment process, and adding those with lived experience to the team.¹ Since the talent pool for child protection lawyers is small, children’s law offices must think big and be creative. Successful recruitment starts with developing relationships beyond the walls of the children’s law office, includes raising awareness about the work performed, and continues with retaining great lawyers.

Where to Look for Candidates

- » Law schools:
 - Start local, especially those with child protection legal clinics. Develop connections with the staff that run the clinic, “sell” the children’s law office by being a guest lecturer or moot court judge, or invite the students to a “lunch and learn” at the office. Develop relationships with the university’s public interest law student association and career placement office.
 - Connect with law schools located at Historically Black Colleges and Universities (HBCUs) and those with strong DEI programs. Post jobs on their school employment websites and form relationships with the deans.
 - Develop relationships with other out-of-state law schools with strong programming in child welfare or social justice.
- » The child protection community:
 - Develop relationships with judges and their law clerks.
 - Talk to stakeholders about vacancies; recruit agency attorneys and parents’ attorneys who may want to practice from a different perspective.
- » Professional organizations and events:
 - Reach out to state, local, and affinity bar associations, as well as national child protection organizations with employment listings and listservs, such as the National Association of Counsel for Children (NACC) and American Bar Association (ABA).
 - Participate in career fairs.
- » Utilize job search websites (LinkedIn, Indeed, EqualJusticeWorks.org).
- » Hire from within:
 - Turn the traditional summer law clerk program into an internship or a fellowship program, with the intent of sustaining law students and graduates until they are licensed:
 - Create a training program designed to nurture the candidate’s passion for child welfare from the outset. For example, allow the candidate to shadow an attorney during a client visit or observe a trial to see the “law in action” during the first few days.

¹ See *also*, Chapters II.B.1: Diversity, Equity, and Belonging and II.C.3: Engaging Lived Experienced Experts and Staff.

- Assign policy work or an initiative to the intern, or identify tasks that can be completed by someone other than a licensed attorney, to allow the intern to develop autonomy and become integrated into the team.
- Consider offering bar study stipends, contract work, or part-time employment while the clerk or intern is in class or studying.
- Set clear expectations about work product and compensation to avoid having an intern or clerk leave the program early.
- If the children's law office is housed within a multidisciplinary office, such as a legal aid firm or a county agency, there may be experienced attorneys ready to make a change. Consider sending a firm-wide email about the job posting.

While the search is ongoing, the children's law office should review its own website to make sure it is attractive to the ideal candidate. The site should be clear, interesting, and well-organized. It should provide some information about the practice model (e.g., whether the children's attorneys are client-directed or guardians *ad litem*). The site should highlight any specialized teams within the children's law office and describe any noteworthy policy work. Post vacancies online, along with job qualifications and clear instructions on how to apply.

Lastly, the children's law office should try to eliminate any obstacles which a good candidate may face. For example, if the state bar does not offer reciprocity with other states, consider working with the state supreme court or bar organization to develop a "special practice" license or rule that allows attorneys barred in other states to practice public interest law without having to take another bar exam. Consider starting the candidate on a part-time basis or as an independent contractor if the candidate needs time to wrap up their former practice or needs income while they prepare to leave their old position. Create a list of resources on housing, transportation, recreation, schools, and nearby daycares to ease the transition for candidates coming from out of state.

Hiring

Deciding who to hire starts before the resumes arrive; it starts when the job posting is written. Most job postings include a list of ideal qualities held by the candidate. There are a number of factors to consider when selecting a candidate to hire, and preferably this is not done by a single person. Instead, consider using a hiring team; not only does this lighten the workload, but it also brings more objectivity into the process. Generally, the composition of the hiring team depends on the organization's structure. Minimally, it includes the actual decisionmakers and salary-setters; however, it can include midlevel management, human resources, and supervising attorneys, as well as senior non-attorney staff. Make diversity and inclusion a priority in selecting the team and selecting candidates,² and educate the team about the presence of unconscious bias.³

Once the hiring team is established, the team should set a goal for the process; in other words, the team identifies what qualities are necessary for the position to be filled (usually listed as "qualifications" in the job posting) and what qualities would be ideal. For example, prior children's law office experience may be ideal, but if there are sufficient resources for training and observation, prior experience may not be required.

Qualifications may include:

- » Juris doctorate degree

² See also, Chapter II.C.1: Setting the Vision for hiring considerations in the Commitment to Antiracism section.

³ For example, have the team members try the Harvard Implicit Association Test by Project Implicit, <https://implicit.harvard.edu/implicit/iatdetails.html>.

- » Bar license/good standing
- » Prior litigation experience

Qualities to consider include:

- » Passion, a commitment to public interest law, or a desire to see justice done
- » Communication and writing skills
- » Decorum or ability to perform under pressure
- » Creativity and willingness to learn or adapt
- » Capacity to work independently and as part of team
- » Organizational and time management skills
- » Commitment to cultural humility, as an ongoing process of learning, self-reflecting, and respecting the cultural experiences of others

Prior to any interview, the hiring team should review the documents submitted by the candidate. In addition to a resume, consider requiring applicants to submit a cover letter. These documents should not only be used in determining who gets an interview, but as a roadmap to get to know the interviewee.

- » Pay particular attention to the cover letter. It can indicate whether the candidate is seriously interested in child protection law or is just applying to a wide range of jobs.
- » Does the work history on the resume reflect the experience the organization is seeking? If not, is there a skill set that can be adapted to meet the needs of the organization?
- » The resume explains more than just where the applicant worked and when. Look at the overall structure of the resume. The organization of the resume usually highlights skills or experiences that the candidate believes are important. Use those skills or experiences as starting point for discussion during an interview.
- » Are there employment or education gaps or frequent job transitions? Prepare to ask the candidate thoughtful questions about changes in their career path but do so with an open mind. Such changes may be the result of experiences outside of work, and those experiences may give that candidate something equally valuable to time on the job. For example, a candidate may have left full-time employment to care for a child with a disability. They may then have a strong commitment to equal access to justice. Other candidates may have left a job shortly after starting to follow a spouse to a new city.

There is no set formula for how interviews should be structured. For candidates living out-of-state, offices might consider a two-step process, starting with a remote interview followed by an in-person interview if both the interviewers and the interviewees are interested in progressing to the next step. Regardless of interview's format, the interview serves several purposes. First, it allows for a deeper assessment of the candidate's qualities. Ask questions about particular cases or projects the candidate worked on in the past, and why those particular cases were enjoyable. Discuss supervisory and training duties to assess for future leadership assignments. Second, it is a way to introduce the candidate to the children's law office. Talk about the model of representation, and the experience of meeting children in foster homes and shelters. Find out if this matches the candidate's expectations. Third, the interview is a way to further define job duties and requirements. Talk about typical schedules and work routines or describe a day in the life of a typical children's attorney.

After the interview, gather input from those on the hiring team while their impressions are still fresh. Ask questions about why the team likes or dislikes a candidate to draw out how objective those impressions are. Ask the team if there are additional questions or areas which need follow-up.

References are valuable, so checking references should not be done haphazardly. Examine which references the candidate selected (and which obvious references were not chosen). Develop a list of open-ended questions designed to elicit how the candidate will do in this particular position.⁴ The quality of the endorsement is found not only in the answers to the questions, but in how enthusiastic the reference is and how much detail they provide about the candidate. Ultimately, hire the candidate that fits the needs of the clients and the organization.

RETENTION

Once a decision is made to hire a candidate, the offer is hopefully the start of a long relationship. Ideally, the offer includes a competitive salary. If the organization has limited funds, consider other incentives to be competitive, such as generous PTO allotments or an immediate start to benefits if the children's law office uses probationary periods for new hires. Lastly, use the onboarding/orientation process to introduce the new hire to the firm's culture.

Flexibility, along with wellness, are key to keeping good employees;⁵ both are factors affecting quality of life. Flexibility can take the form of remote work, flexible start/finish times, and use of the four-day work week. Wellness initiatives combat the symptoms of burnout and secondary trauma. Such initiatives include:

- » Use of PTO and vacation time and ensuring that time gets used (and that employees actually unplug)
- » Encouraging reasonable hours and using time off to be with family and other important social connections
- » Encouraging leaders to have open discussions about wellness, burnout, and secondary trauma
- » Team-building activities
- » Recognition of work well done and longevity

Being intentional about diversity, equity, and inclusion should continue well after employees are hired. The children's law office should continually assess how the office is performing in these areas.⁶ This includes examining whether adequate support, including support from leaders and administrative support, is provided to those from diverse backgrounds and cultures. Also, consider setting up a mentorship program to support employees from diverse backgrounds. Finally, when a tragedy occurs in an underrepresented community, leadership should not overlook a chance to express support and unity with those affected (for example, issuing a statement criticizing law enforcement's excessive use of force on a member of the Black community).

Lastly, children's law office leaders should support lawyers with opportunities to lead internally and be involved in outside professional opportunities. For example, select one or two attorneys to become subject matter experts and teach at a staff lunch. Encourage new lawyers to be active in the young lawyers section of a bar organization. For more senior attorneys, consider asking them to represent the office on a court improvement committee. Remember, simple yet thoughtful recognition goes a long way; recognizing a win in court or a notable anniversary in an email can strengthen the team.

4 For a step-by-step guide on how to check references, see Knight, Rebecca. (2016, July 29). *The Right Way to Check Someone's References*. Harvard Business Review. <https://hbr.org/2016/07/the-right-way-to-check-someones-references>.

5 See also, Chapter II.B.4: Workforce Wellbeing.

6 See Dreasher, Luiza. (2019, June 27). *Let's Get Practical: Successful Strategies for Recruiting AND Retaining a Diverse Workforce*. The Inclusion Solution. <https://theinclusionsolution.me/lets-get-practical-successful-strategies-for-recruiting-and-retaining-a-diverse-workforce/>.

CONCLUSION

Finding and keeping a team of talented, enthusiastic, and diverse children’s attorneys is more than posting an ad and offering a salary. Child abuse and neglect law is a very specialized area of practice. Because the clients’ stories are traumatic and the clients are often so young, attorneys in this field are unique — showing great levels of compassion and commitment to justice, while remaining humble to those they serve. Finding and keeping those attorneys as part of the children’s law office team requires leadership to be thoughtful in their recruitment and intentional in their retention.

B.3: Training and Mentoring

Dean Conklin, JD, CWLS & Michelle Jensen, JD, MSW

A children's law office must ensure that their attorneys have the skills and knowledge necessary to provide high-quality legal representation — providing consistent and continuous training is a crucial responsibility of the office. Whether the children's law office is small or large, training and continuing education are critical to success. A smaller or brand-new children's law office with less internal capacity may want to consider outsourcing their training to national organizations, Court Improvement Programs, state bar associations, and/or by partnering with other local children's law offices to share training responsibilities. Larger offices may want to consider developing an in-house training program.

A children's law office training program should be ongoing, diverse in content, and incorporate adult learning strategies and perspectives. Adult learning principles assume an audience of autonomous and independent learners who are often balancing the learning experience among other significant priorities.¹ An effective training program should provide a foundation covering relevant legal and social science topics, build upon content with deliberate and thoughtful ongoing training opportunities, and incorporate a variety of learning modalities, including mentorship.

FUNDAMENTALS: THE IMPORTANCE OF ESTABLISHING A FOUNDATION BEFORE APPOINTMENT AS COUNSEL

Representing children and youth requires attorneys to have a significant knowledge and skill base on a variety of topics. Best practice is always to establish a foundation of core skills and knowledge before accepting appointment — this is a key to any law office training program.

A comprehensive core training in child welfare is comprised of the topics below. Ethics and professionalism should be incorporated within these topics. Establishing a knowledge base in these areas is essential as one begins their child welfare law practice:

- » **Purpose & Philosophy of Child Welfare Law:** An initial training program should provide a framework for practice that orients the new attorney to the child welfare landscape and the purpose and philosophy of child welfare practice. Such training should include the collaborative nature of child welfare law, as well as the importance of viewing the work through a children's rights lens.
- » **Sources of Authority:** Training programs should also incorporate child welfare federal and state statutes (including ICWA), case law, regulations, court rules, and child protection agency policies.
- » **Hearings/Statutes/Timelines:** Attorneys must have an advanced understanding of the legal timelines throughout the life of a case. Review:
 - The timing and purpose of each hearing per state or federal statute, as well as practice tips for preparation
 - Applicable statutes for each hearing and how they can best be used in legal arguments and in-court advocacy
 - Out-of-court advocacy strategies and local court and child protection agency culture

¹ A general starting point to learn more about adult learning principles is Malcom Knowles' 1980 book, *The Modern Practice of Adult Education: From Pedagogy to Andragogy: Revised and Updated*, Cambridge. The Adult Education Company, New York, New York 10106.

- » **Roles & Responsibilities:** Review the unique role of the children’s attorney, applying the rules of professional conduct and generally accepted practice standards. Given the nature of this practice and the unique role, cover conflicts of interest (particularly representing siblings), confidentiality and privilege (which may differ based on the jurisdiction’s representation model (expressed or best interest)), and the lawyer-client relationship and decision-making framework. Building a sustainable practice requires an understanding of professional boundaries and responsibilities of all parties. Review the roles and responsibilities of other parties including parent’s counsel, the caseworker and child protection agency, agency/government attorney, and other potential partners (e.g., CASA). If the jurisdiction engages in multidisciplinary representation, review the roles and obligations of each member on the team.
- » **Youth Voice/Participation:** Youth participation and wellbeing are at the center of this work. A training program should emphasize the importance of ensuring effective, meaningful, and developmentally appropriate youth participation in legal proceedings, meetings, and any other case events. The youth should dictate their participation level and method of participation.^{2,3}
- » **Social Science Topics:** Children and families experience many challenges that result in child protection system involvement. New practitioners must learn about relevant social science topics, including child development, harms of family separation, family violence, poverty, trauma (including generational trauma and trauma-informed practices), mental health, and substance use/misuse/abuse.
- » **Client Engagement Skills:** Client interaction skills, including child interviewing and communication, communicating with parents and families, and client counseling are the basis of a good attorney-client relationship.
- » **Advocacy Skills:** Foundational attorney training should include in-court advocacy, trial skills and litigation strategy, legal writing, and case planning. Incorporating mock arguments and exercises that apply law to fact scenarios is an efficient and effective training method. Teaching out-of-court advocacy skills is equally important, including those required to effectively conduct a home visit and an independent investigation.
- » **Assessing Child Safety:** Attorneys should know how to assess child safety throughout the case, including assessing potential risks and protective factors.
- » **Cultural Humility:** In order to provide competent representation attorneys must be trained on implicit bias, culturally responsive lawyering, and other subjects on cultural humility.
- » **Building a Sustainable Practice:** Strategies for personal and professional boundary-setting, understanding and mitigating compassion fatigue and secondary trauma, and engaging effectively with other professionals are important for sustaining practice in this unique area of law.

ONGOING TRAINING AND OTHER ESSENTIAL TRAINING TOPICS

A law office training program should emphasize the philosophy that training is never “done;” rather, it is a consistent, ongoing practice of learning and skill building. Statutory and case law updates and

2 See National Association of Counsel for Children. (2021). *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings, Part IV*. <https://naccchildlaw.org/standards-of-practice/>

3 See also, National Association of Counsel for Children. (2022). *So You Want to Engage an Adolescent Client in their Case*. https://naccchildlaw.org/wp-content/uploads/2023/03/nacc_yetips.pdf.

the evolution of best practices require topics to be revisited frequently. Law offices should train at all levels of learning, from new attorneys to experienced attorneys. Consider offering a “training series” that builds up competency on specific topics; for example, trial skills and motions practice or child development curriculum.

After a core foundational training, the following key topics should be introduced early in the attorney’s career: juvenile legal system, appeals, educational advocacy, immigration, gender expression inclusivity, commercial sexual exploitation, disabilities, the public benefits system, and cultural identity concepts and practices. Experienced attorneys should also remain up to date on these topics as their practice evolves.

CONSIDERATIONS FOR BUILDING A TRAINING PROGRAM

- » **Audience:** Consider how many professionals the training program will serve. Assess the need for beginner, intermediate, and advanced training on specific topics.
- » **Frequency:** How often will training take place? Will some topics necessitate a set frequency? For example, an end-of-year annual update on case law, federal, and state statutory updates may be required.
- » **Responsibility:** Will the program require a training coordinator/manager/director or are training responsibilities incorporated into another position?
- » **Subject Matter Expertise:** Will training be provided in house, or will the program need external presenters? Consider assessing on a topic-by-topic basis based on the in-house expertise.
- » **Materials to Support the Curriculum:** Handouts and other presentation materials are a vital aspect of training. Who will develop these? Will handouts be available beyond the initial distribution? If so, how/where? Who will be responsible for updating materials?
- » **Training Modalities:** Many adults learn by doing. When building a training program, consider using various modalities for ongoing training, including webinars, in-person events, workshops, and self-guided e-learning.

Consider the practical factors for each modality: resources available, training space, skill and ability to operate virtual training platforms, ability for participants to attend in person, time and resources to build e-learning courses, etc.

Consider the ultimate learning objective of the training as a guide: How vital is interaction/exchange among participants? Would the learning objectives be enhanced by bringing participants together in person? Is there an opportunity to allow participants to engage in self-study beyond the formal training? How can breakout/small groups be utilized, if they should be utilized at all?

MENTORING

Mentoring allows for additional “learning-by-doing” opportunities consistent with adult learning principles and styles. Learning from colleagues and engaging in child welfare practice as a community is incredibly valuable. Mentoring emphasizes the importance of one-on-one relationships.

When possible, establish a formal program. Build a process for choosing mentors and pairing mentors/mentees upon mentees beginning work. Provide suggested activities: case staffing, introduction to local stakeholders, explaining local practices and court procedures, assistance with trial preparation. Build a feedback mechanism (either formal evaluation or informal feedback) for ongoing improvement.

Acknowledge the importance of a mentor who is not a supervisor. A supervisor's role is to ensure goals are met, promote compliance, monitor task management, and provide professional evaluation. A mentor role is focused on professional development and may allow for a more free and vulnerable space to share challenges and innovative ideas.

Also consider the concept of "mentoring up and down;" attorneys of varying experience levels all have something to offer and something to learn. Sharing one's experience often helps reinforce the lesson for the teacher/mentor, not just the student. Mentoring exposes experienced attorneys to new perspectives. Accomplished professionals often develop "habits," both good and bad. The act of mentoring brings a refreshed focus to the idea of "this is just how we do things here." Finally, mentoring demonstrates a personal investment to the mentee — a mentor is another person who cares about the person, not just the performance.

B.4: Workforce Wellbeing

Adam Ballout, JD & Vivek Sankaran, JD, CWLS

“When we’re kind to ourselves, we create a reservoir of compassion that we can extend to others.” — Brené Brown

The ability of professionals to care for others hinges on their ability to care for themselves. Only when people feel healthy, engaged, and connected to themselves and their work are they in a position to give their best to others. Unfortunately, all too often, individuals push aside their own needs to serve their clients, only to burn out, disengage, and leave the field. Thus, the notion of workforce wellbeing must be a collective responsibility and not something that simply falls on the shoulders of individual employees. This chapter highlights some of the considerations that organizations should take into account related to workforce wellbeing.

CREATE A COMMUNITY OF CARE

Because caring for one another is a collective responsibility, organizations should move away from the phrase “self-care” and instead talk about the need to create a community of care. In order to create a community of care, organizational leaders must — with transparency, clarity, and consistency — emphasize that taking care of each other is a key value to the organization. This conversation should start immediately when anyone enters the organization and should be reinforced whenever possible. Leaders should:

- » Be transparent about workplace norms regarding hours, vacation time, workplace flexibility, having a life outside of work, and the importance of wellbeing
- » Highlight ways in which they are taking care of themselves and reject the “culture of busyness” in which workers describing how busy they are is seen as a virtue
- » Emphasize and model the need for balance between work and personal lives, and not only give space for, but welcome, workers to share what might be happening in their lives outside of work
- » Reinforce these messages in individual meetings by ensuring they are raising these issues and giving space for lawyers to share feelings openly

Some examples of these steps include creating a celebration board where thank-you cards and pictures from clients, holiday cards, and letters of commendation regarding those in the office are displayed. A leader could also encourage attorneys who may be reluctant to take time off by helping to arrange coverage and setting mandatory minimum time off (with coverage set) to ensure that all office staff are caring for themselves.

Leaders can also create this community of care by equipping their team with resources to help navigate the stresses of the work. Without creating a community of care, a professional’s ability to care for others can be greatly diminished. Leaders can help others understand that care for oneself and compassion are two sides of the same coin, one completely necessary for the other. Such leadership includes modeling wellbeing and self-stewardship to create a cohesive and healthy office culture. In addition, leaders should create opportunities to practice mindfulness, movement, gratitude, connecting and play, all of which can help people thrive.¹ They can also give everyone the chance for regular

¹ See, e.g., Blue, Dani. (2021, May 6). *The Other Side of Languishing Is Flourishing, Here's How to Get There*. NY Times. <https://www.nytimes.com/2021/05/04/well/mind/flourishing-languishing.html>.

small group conversations to discuss both the challenges of the work and examples of how people can still experience joy while doing difficult work.

In short, leaders should reinforce what teacher and civil rights activist Joan Halifax wisely concluded: “Compassion for ourselves is the foundation of compassion for others.”

WORKPLACE FLEXIBILITY

Giving professionals autonomy can also play an important part in helping individuals thrive at work.² One way in which organizations can help professionals exercise autonomy is by allowing them flexibility in terms of where and how they work. The emergence of virtual platforms has demonstrated that staff can stay connected with each other and clients without coming to the same physical space, and many workers have expressed greater job satisfaction when given the opportunity to work remotely.³ Organizations committed to wellbeing must explore how they can give as much flexibility as possible to its workers — for example, through generous PTO policies and flexible schedules.

Yet, while workplace flexibility is important, organizations should balance that flexibility with the need to build community, which is often more easily developed in face-to-face interactions. In-person gatherings, particularly for newer employees within an organization, can play a critical role in understanding how the organization functions and deepening those important relationships that can help people thrive within an organization. When thinking about flexibility, organizations should consider what kinds of in-person activities they can create to help foster a sense of welcoming and belonging among all those who work there. This balance will differ across organizations but should be done with intentionality and transparency. Some examples include staff meetings, happy hours, and office-wide retreats, among other events.

EMPATHIC DISTRESS

Empathic distress, commonly referred to as burnout, is created when one feels distressed or gets triggered over another’s suffering. Professionals working in the child protection system face a high risk of experiencing these emotions, given their exposure to trauma.⁴ Empathic distress can lead to stress, poor health, withdrawal, hopelessness, and ultimately a decision to leave the field.

Leaders must be open about the risks of empathic distress, hold regular trainings on the issue, and lead conversations on ways to prevent it from occurring. For example, organizations might hold mindfulness trainings to help workers better pay attention to their own feelings and reactions to understand when they might be experiencing empathic distress. Trainings should also help people understand the difference between compassion (an energy-creating, joy-filled experience) and empathic distress (which is always draining) and help people think about how they can work towards practicing law in a compassionate way.

One concrete way to address empathic distress and help lawyers feel more engaged in the work is to give them opportunities to diversify their workload — for example:

- » Encouraging opportunities for participation in nonprofit-board work
- » Encouraging opportunities to testify in support of legislation

2 See, e.g., Reisinger, Holger & Fetterer, Dane. (2021, October 29). *Forget Flexibility, Your Employees Want Autonomy*. Harvard Business Review. <https://hbr.org/2021/10/forget-flexibility-your-employees-want-autonomy>.

3 See, e.g., Robinson, Bryant. (2022, May 5). *Remote Work Increases Employee Happiness By 20%, New Study Finds*. Forbes. <https://www.forbes.com/sites/bryanrobinson/2022/05/05/remote-work-increases-employee-happiness-by-20-new-study-finds/?sh=577536593183>.

4 For an extensive list of resources about empathic distress and burnout in the child protection field, see Child Welfare Information Gateway, *Self-Care to Address Burnout and Secondary Traumatic Stress*. <https://www.childwelfare.gov/topics/management/workforce/workforcewellbeing/selfcare/>.

- » Permitting travel to attend national conferences regarding child protection and innovation
- » Supporting volunteerism and engagement with local law schools to help foster a new generation of attorneys engaged and passionate about the work

Attorneys who find work-life balance through out-of-office activities that help them explore or be reminded of their passions are less likely to face unmanageable issues of burnout.

SUPPORTING STAFF

One of the primary ways organizations can help support staff members is by providing adequate resources — financial, but also emotional and physical resources. Adequate financial resources include appropriate salaries, benefits, caseloads, and adequate funding for necessary materials and case support.⁵ Physical resources can include ergonomic resources, access to healthy food options, and options for physical activities during the day. Organizations should consciously work to create a safe and supportive workplace. This includes providing regular trainings on workplace harassment, discrimination, and bias, as well as having clear procedures in place to report incidents. A safe workplace also means providing a welcoming and inclusive environment where everyone feels valued and supported.

Emotional resources can include access to counseling services, opportunities for individual care and stress reduction, and regular check-ins from supervisors. Although this work has the tendency to create a tolerance for the inconceivable, creating space for lawyers to think about their thoughts (metacognitive moments) allows for the opportunity to consistently become better advocates. Consider incorporating “reflective practice” opportunities for peer-to-peer sharing and opportunities for critical self-examination into the workplace culture. Dynamic and honest self-reflection and self-examination are necessary and critical tools as they relate to this work, and act as a vigilant check on keeping biases (conscious and unconscious) from impacting client representation.

Another way to support staff is by providing objective guidelines and expectations for the work. This includes having clear job descriptions, performance evaluations, and regular feedback mechanisms. Organizations should have clear policies in place that outline expectations for workload, attendance, and professional conduct. These guidelines should be regularly reviewed and updated to ensure they reflect the changing needs of the organization and staff.

RACISM AND SUPPORTING STAFF WITH LIVED EXPERIENCE

Organizations must acknowledge and address the impact of racism on their staff, particularly those who have experienced it firsthand. Leadership should lead by example, modeling empathetic and understanding behaviors and creating a workplace culture that values and prioritizes diversity, equity, inclusion, and belonging. By doing so, organizations can create a workplace that supports all employees, including those who have lived experience with racism.

Creating a safe and inclusive workplace starts with leadership recognizing the impact of racism and committing to doing the work required to address it openly and honestly. This may include undergoing antiracism training, conducting regular check-ins with staff, and proactively addressing incidents of racism when they occur. Leaders should also communicate their commitment to an inclusive workplace through their actions, such as hiring and promoting people from diverse backgrounds and ensuring that diverse perspectives are valued and heard.

5 See *also*, Chapters II.B.5: Compensation and II.D.9: Caseloads.

Open and honest communication is crucial in addressing the impact of racism in the workplace. Leaders should encourage employees to share their experiences and offer them a safe space to do so. This requires the prerequisite work of expressing to all employees the sincere commitment of leadership to taking care of each other. Individual meetings with employees and leadership allow for that encouraging space. Leaders must listen actively and show empathy, validation, and understanding. They should also be prepared to take action when incidents of racism occur, including investigating and addressing the issue and providing appropriate support such as counseling/therapy resources.

Fostering a culture of empathy and understanding is key to supporting staff who have lived experience with racism. Organizations should provide training and education for all employees to better understand the impact of racism and how to be an ally in the workplace. This includes educating employees on the history and systemic nature of racism and how to recognize and address their own biases.

STAFF RECOGNITION

Organizations flourish when they create a culture of positive appreciation.⁶ A culture of positive appreciation exists when people feel valued for their work and are recognized for the impact they have on others. Leaders can create this culture by first openly acknowledging that this is the type of culture they seek to build and then by building opportunities for staff to share those appreciations with one another. Leaders should keep in mind staff preferences when thinking about how and when to deliver such appreciation. Examples include:

- » Beginning and ending group meetings with an opportunity for people to share appreciations
- » Instructing supervisors to openly share their appreciations for those they work with within individual meetings
- » Creating platforms for workers to share appreciations between one another on a daily basis
- » Instituting weekly, monthly, or annual awards for those workers who have truly exemplified the organization's values

Working on issues involving the child protection system can be tough and incredibly demanding. Creating a culture of appreciation can increase joy even while doing this tough work and can help staff recognize the impact they are having on themselves and their clients. A regular healthy culture of appreciation also helps keep the reasons why attorneys chose this line of work front and center in the collective consciousness. By focusing on their goals and reminding them of the positive impact they have on others, organizations can help reignite the fire that drives their work.

TRAUMA AND SELF-CARE RESOURCES

- » Laura van Dernoot Lipsky and Connie Burk, *Trauma Stewardship: An Everyday Guide to Caring for Self While Caring for Others* (2009). Available here: https://www.amazon.com/gp/product/157675944X/ref=ewc_pr_img_2?smid=ATVPDKIKX0DER&psc=1 or check your local bookstore or library
- » Francoise Mathieu, *The Compassion Fatigue Workbook: Creative Tools for Transforming Compassion Fatigue and Vicarious Traumatization* (2011). Available here: https://www.amazon.com/gp/product/0415897904/ref=ewc_pr_img_1?smid=ATVPDKIKX0DER&psc=1 or check your local bookstore or library

⁶ See, e.g., Robbins, Mike. (2019, November 12). *Why Employees Need Both Recognition and Appreciation*. Harvard Business Review. <https://hbr.org/2019/11/why-employees-need-both-recognition-and-appreciation>.

- » Olga Phoenix, *Victim Advocate's Guide to Wellness: Six Dimensions of Vicarious Trauma-Free Life* (2014). Available here: <https://www.amazon.com/Victim-Advocates-Guide-Wellness-Trauma-Free/dp/150089706X> or check your local bookstore or library

B.5: Compensation

Judith Sandalow, JD

Compensation refers to the range of financial and non-financial benefits that an organization provides for its employees. Standard compensation falls into four categories:

- » Salary and bonuses
- » Employee benefits, such as health insurance
- » Professional development opportunities
- » Organizational culture

SETTING A STRATEGY

Different employees may value different components of a compensation plan. The same employee may value different components depending on where they are in their life and professional cycles. For example, employees starting their careers often value professional development. More senior employees who are starting a family often value comprehensive benefits.

Although financial realities will limit the compensation package a children's law office can offer its employees, a well-thought-out compensation strategy can help an organization recruit and retain the employees most able to help it achieve its mission. Questions to consider in setting a compensation strategy include:

- » What type of talent does the organization want to attract?
- » What diversity does the organization value?
- » What are the barriers to attracting new talent?
- » What is the ideal tenure for various positions?
- » What are the barriers to retaining talent?
- » Does the organization prefer to develop talent or hire experienced staff?

SALARY AND BONUSES

Determining the market price for each position in the organization is an important starting point. This can be done by hiring a firm that specializes in compensation reviews, purchasing market surveys,¹ or conducting an informal survey of similar organizations in the region. Job titles can be deceiving; a good market survey looks at job responsibilities, not the title of a position.

The market is usually just the beginning of developing a compensation structure. Another key consideration is internal equity. For example, the market may pay social workers more or less than attorneys, but the organization may want to treat them as equals and thus create pay parity.

The organization's compensation philosophy drives starting salaries, which usually vary depending on prior experience. If the organization prefers to hire new attorneys and train them, then it may give little financial compensation for prior experience. If, however, the organization wants to hire experienced attorneys, it may need to treat prior experience similarly to tenure in the organization for the purposes of salary considerations.

¹ For legal services positions, see The National Association for Law Placement (NALP). www.nalp.org.

The organization's compensation strategy also informs decisions about raises and bonuses. Most employees expect annual raises. Conditioning raises on tenure versus merit is a key decision. Giving larger raises after a set number of years rewards longer tenure. For merit increases, the organization must consider whether it has the capacity to ensure that merit decisions are equitable. Considerations for bonuses are similar to those for raises. A key difference is that a bonus is a one-time cost and does not have an impact on an employee's base salary in future years.

Conducting compensation reviews can be costly, and thus it is often not feasible to conduct them every year. A review every three years is often sufficient; however, in times of significant market volatility, it may be necessary to do market research on key positions as they become vacant.

EMPLOYEE BENEFITS

The menu of employee benefits provided expresses the values and philosophy of the organization. Paying health benefits for employees and their dependent children, for example, sends the message that the organization is family friendly. There are a range of paid employee benefits to consider:

- » Health, dental, and vision insurance: for employees, spouses/significant others/children, and what percentage of the premium the organization pays
- » Short- and long-term disability
- » Flexible spending accounts for medical and childcare costs
- » Commuter benefits
- » Retirement plans and whether the organization matches or contributes and at what percentage
- » Employee assistance programs for substance use disorders and mental health
- » Loan forgiveness
- » Paid time off, including vacation, sick, bereavement, and parental and caregiver leave
- » Professional development funds

In determining and providing these benefits, organizations should first look to any relevant or governing federal or state laws. In addition, the Society for Human Resource Management offers a range of training and technical assistance.²

PROFESSIONAL DEVELOPMENT

Market realities often clash with financial ones. If the organization cannot compete on salary, it may be able to offer robust training and supervision. Sometimes professional development can be offered as a paid benefit, providing the employee a set amount to spend on outside training. However, a thorough internal training program and low supervisor-employee ratios are often a successful way to ensure high-quality representation and attract and retain staff.

ORGANIZATIONAL CULTURE

What it feels like to work at an organization is often called organizational culture and can be considered part of the compensation package. Developing and maintaining a strong organizational culture takes intentionality and focus. Some of the issues that impact culture include:

- » How diverse is the staff and what efforts are made to be inclusive and equitable?

2 Society for Human Resource Management (SHRM) <https://www.shrm.org/>.

- » Do employees “clock in” or is there flexibility in their work schedule?
- » Can employees work remotely? What are the contours of the hybrid work plan?
- » Is management transparent about decisions and effective at communicating with all staff?
- » What are the organization’s commitments to addressing racism and other oppressions?
- » Are staff allowed or encouraged to take time to care for their family, from attending a school play to staying home with a sick child?
- » What types of social or cultural activities are organized for staff: are there happy hours, picnics that include employees’ families, celebrations of Hispanic Heritage month, etc.?

CONCLUSION

Many children’s law offices provide excellent benefits, have a favorable organizational culture, and invest smartly in professional development. However, employees often equate only salary with compensation. Organizations should take the time to educate employees about each category of their compensation program in order to build employee appreciation for the opportunities afforded by the organization.

B.6: Multidisciplinary Team Members

Kristin Flory, JD & Tom Welshonce, JD

Children deserve to have highly trained and effective advocates. A children's law office's decision to implement a multidisciplinary legal representation model is the first step toward providing enhanced legal representation, but there are many factors to consider in building and sustaining an effective and successful team.¹ An effective team fosters clear communication, collaboration, respect, and a shared commitment to the wellbeing of children. It encompasses strong leadership, effective decision-making processes, and a focus on best practices. The office must consider the inherent differences between attorneys, social workers, and other team members when it comes to confidentiality, privilege, and mandated reporting. Training and professional development are important to ensure that team members have a solid foundation and stay up to date with the latest information and best practices in the child protection system.

TRAINING

Having a solid training program sets the groundwork for creating an effective multidisciplinary team.² Training programs should encompass substantive and procedural content such as state/federal law and ethics, and additional areas such as child development, community resources, cultural humility and diversity, communication skills, best practices for working with families, trauma-informed practices, education, mental health, intimate partner violence, and substance use/abuse. An effective training program should do the following:

- » Establish clear direction, highlight best practices, and allow multidisciplinary team members to understand each other's roles
- » Set expectations for each role and emphasize how individuals can best work together
- » Emphasize the importance of using a holistic approach in child protection cases

Consider the format of, and who is involved in, the training program. An observation component (hearings, meetings, visits) is important as it helps promote learning, collaboration, and a shared understanding of the organization's values and practices. Observing experienced team members can help new hires develop and improve skills as well.

CONFIDENTIALITY, PRIVILEGE, AND MANDATED REPORTING

Multidisciplinary practice can raise questions regarding client confidentiality, privilege, mandated reporting, and the role and duties of the attorney which cannot be assigned to other staff, like providing legal advice and representation of clients in court. Law offices must thoroughly research and consider those issues and develop policies and procedures that are respectful of the different professionals and consistent with the professional codes, ethical principles, and licensing requirements of everyone involved.

When bridging children's legal representation with social work and other disciplines, questions arise as to legal and ethical considerations as they pertain to confidentiality and mandated reporting. Each profession must comply with the rules of practice as defined by law, state ethics codes, and any adopted standards of practice. The legal and social work professions have fundamentally different professional ethics. The federal Child Abuse Prevention and Treatment Act (CAPTA) requires states

¹ See also, Chapters II.D.4: Multidisciplinary Practice and II.D.5: Peer Advocate Programs.

² See also, Chapter II.B.3: Training and Mentoring.

to have procedures in place for certain individuals to report known or suspected incidents of abuse and neglect.³ Every state has a mandatory reporting law. Social workers generally fall into a category of persons that must report cases of suspected abuse or neglect. But attorney confidentiality has stricter limitations around disclosure with reporting requirements varying by state as well as by how they represent their child client (GAL vs. child's counsel).

The American Bar Association's Model Rules of Professional Conduct, Rule 1.6 states:

- a. *A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).*
- b. *A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary...to prevent reasonably certain death or substantial bodily harm.*

Although these ethical guidelines can conflict, there are practice models which enable a legal services provider to collaborate with social workers while still maintaining attorney-client privilege. The most common model utilizes the American Bar Association's Model Rules of Professional Conduct, Rule 5.3, which states:

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- a. *a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;*
- b. *a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and*
- c. *a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer...*

Under the above rule, a social worker within the law office acts as a member of the legal team and falls under the attorney-client privilege.

Children's law offices must closely examine their jurisdiction's requirements when establishing a multidisciplinary children's law office and provide the following based on those requirements:

- » Transparency when hiring so that social workers understand what will be different than how they may have previously been trained (i.e., that they understand attorney-client privilege and are accepting of it if that is the model that the multidisciplinary office will be using)
- » Clear definition and scope of confidentiality; define what constitutes confidential information and how/when information can be shared
- » Identification of the scope of situations that trigger mandated reporting and who is responsible for making the report
- » Training regarding all state laws, ethical obligations, and practice standards

EFFECTIVE TEAMS

Multidisciplinary team members should have the same goals and objectives. Team members must:

- » Be able to work independently but also share information and their specialized knowledge
- » Have respect for each other's qualities and skills

³ 42 U.S.C. § 5106a.

- » Communicate frequently and have clear expectations about the assignment of specific tasks and timelines for completion of tasks — such as client contact, attending meetings, working with the child protection agency, service providers, and foster families, and preparing for court
- » Leverage each other's skillsets and incorporate each other's diverse perspectives into case discussions and planning

Children's law offices should establish policies and procedures to promote effective teaming, including determining how specific tasks on cases are delineated and what responsibilities each team member assumes. Such policies include alignment around:

- » Information sharing
- » Case task assignment
- » Documentation
- » Decision making

There should also be set expectations on the collection of information. Best practice would be to collect information around all domains of a child's life (placement, visitation, education, mental health, medical, etc.). Although communication/collaboration on cases should happen regularly and as often as possible, many children's attorneys (even in multidisciplinary organizations) have high caseloads that make regular contact with team members about all cases difficult. Consider solutions like a shared database for team members to be able to access each other's work. Supervisors should help ensure that documentation is occurring regularly so everyone can be aware of case issues.

SUPERVISION

An effective supervisory structure can create a team that is productive and collaborative. An initial consideration is whether the office will have case teams supervised by a central supervisor or profession-specific supervision. Effective supervisors set clear standards, encourage open communication/collaboration among the team, coach staff to continue to grow within their roles, encourage dialogue to have staff think outside of the box, and implement practices for evaluating the quality and effectiveness of advocacy inside and outside of the courtroom. Law offices should determine whether case teams have autonomy in decision making regarding case recommendations or if supervisors will provide approval on case team decisions. Supervisors should set clear expectations that team members complete their tasks and reinforce that expectation through ongoing communication with case teams and periodic file reviews.

Supervisors should consider regular team-building activities to promote respect, trust, and supportive relationships. Getting team members together and promoting positive communication not centered around cases will help with building positive relationships. Supervisors should also gather feedback from the team members on a regular basis to assess what is working and what is not working as the multidisciplinary team grows. Supervisors should also consider opportunities for professional development of staff and opportunities for staff recognition.

CHALLENGES

Although there are many benefits that come from a multidisciplinary model, there are also challenges. Some commonly seen challenges include:

- » Treating social workers as an integral part of the team and not as a subordinate to the attorney

- » Allotted tasks not being completed in a timely manner
- » Lack of documentation
- » A team member acting without consultation/discussion with the other team members
- » Disagreements on a course of action or about recommendations
- » Duplication of tasks
- » Different communication styles or lack of communication
- » Impact of vicarious trauma/burnout

Many of these issues can be mitigated with policies/procedures and supervisors who are dedicated to talking through issues, ensuring consistency in practice, and helping teams grow together. Addressing these challenges requires a commitment to ongoing team development, effective communication strategies, clear guidelines and protocols, conflict resolution strategies between team members, adequate resources, and a supportive supervisory system. These factors along with the shared commitment to the wellbeing of children and families can help mitigate the challenges that arise and foster a collaborative and effective multidisciplinary team in the child protection system.

C : MANAGING WELL: SUPERVISION AND LEADERSHIP

C.1 : Setting the Vision

M. Chach Duarte White, JD & Erin L. Lovell, JD

ESTABLISHING AND ALIGNING ORGANIZATIONAL VALUES AND PRINCIPLES

Children's law offices must establish organizational values and principles to serve, within the framework of their mission, as the compass for where an organization is headed and to guide processes and decisions along the way. Values and principles should inform all organizational decision making — internal policies, practices, programs, service design and delivery, financial decisions, etc. Organizations should publicly share their values and principles to increase transparency and accountability. Children's law offices must affirmatively act to grow and operate in alignment with their values and principles.

The process for defining, or reviewing and redefining, organizational values and principles must be inclusive — it's not a top-down exercise. Staff at all levels of an organization should have an opportunity to contribute. Staff engagement can be supported through a third-party facilitator, anonymous surveys, small groups, and all-staff meetings. An organization may start with the full team, generating a lot of ideas with post-its or Jamboard, then break into smaller groups for reflection on themes and ideas before sharing out to the large group. Offices may create a designated workgroup with a diverse mix of staff for follow-up action. The workgroup can circle back to the whole staff with anonymous surveys or another all-staff meeting to share out and receive more feedback on ideas before finalizing.

Adopting written organizational values and principles is the first step in an ongoing process. The document should inform decision making within the organization on a recurrent basis. If the organization has established values and principles that are older than two years, review the document with all staff to assess where there is alignment and where action towards greater alignment is needed and should be prioritized. Organizations should review their values alignment, at a minimum, along the same cadence as the strategic plan.

Example: One of the organization's values or principles is a commitment to addressing secondary trauma and promoting a community of care/self-care. The organization should ask itself (including all staff): What can we do to better support employee wellbeing?

This values assessment may result in multiple organizational changes such as:

- » Decreasing caseloads
- » Decreasing actual hours worked
- » Checking in with employees around self-care as early as job interviews and ongoing with their direct supervisors
- » Supporting staff time spent in affinity groups for staff of diverse racial and ethnic backgrounds and those identifying as LGBTQIA+
- » Supporting staff with lived experience

Every individual and organization has room to improve in realizing their defining values and principles. True change for the better is not possible without a safe space to share feedback and generate ideas for growth and change. For the health of the organization, its staff and youth served, children's law offices must name and foster a commitment to continual learning and acceptance of failures. Multiple characteristics of White supremacy culture — such as perfectionism, defensiveness, and either/

or thinking — push against opportunities for change and innovation. White supremacy culture is the norm for most nonprofit organizations, so to run counterculture, repeated intentional messaging and action from leadership is required.¹

COMMITMENT TO ANTIRACISM

A core value of all children’s law offices must be a commitment to antiracism. Families and children of diverse racial and ethnic backgrounds are disproportionately involved in detrimental court actions (dependencies, juvenile defense, etc.); the laws themselves are written to impact and target these communities and individuals unfairly. Children’s law offices must not perpetuate harm. Organizations must proactively work to understand and redress the impacts that racist and discriminatory systems and institutions have on youth, attorneys, and staff who are similarly situated as a targeted group. Examples of racially targeted groups include (but are by no means limited to) Black, Indigenous, Latino/a/x, Asian, and Middle Eastern communities, and people who are not citizens of the United States. A commitment to antiracism must be at the center of this work.

All children’s law offices need to engage in an inclusive, open process to define their commitment to antiracism. Organizations must create a written statement to ensure clarity around the commitment and to be able to refer to the written statement for guidance on organizational decisions.

A commitment to antiracism is in many ways countercultural to the characteristics of White supremacy that permeate most nonprofit spaces. For example, a commitment to antiracism coincides with an increase in power sharing, accountability, and transparency, rather than power hoarding and gate-keeping. A commitment to antiracism requires organizations to affirmatively act to challenge racism as it is embedded in outside systems, practices, and laws and as it exists in practices and policies within the organization. Children’s law offices must apply their commitment statement on antiracism to everything, always, and adapt accordingly.

Example: One of the organization’s values is antiracism. The organization should ask itself: How can we improve the organization’s hiring process² to better align with this value? The organization may review and assess:

- » Job descriptions
- » Recruitment
- » Interview process
- » Systemic advocacy
- » Assessment and decision-making processes

This values assessment may result in multiple changes to the organization’s hiring practices and policies. For example, an organization may:

- » Revamp the language and order of content on job descriptions to be more welcoming (and even targeted) to a diverse group of applicants
- » Ensure the job description guides the interview questions and candidate evaluation forms
- » Provide interview topics in advance
- » Require a period of independent review and written assessment of a candidate before group conversation to counter groupthink

1 Okun, Tema. (n.d.) White Supremacy Culture Characteristics. *White Supremacy Culture*. <https://www.whitesupremacyculture.info/characteristics.html> (last visited October 9, 2023). See also, Majors, Dr. Michelle. (2018). *Trust the Process: Reflections of a Nonprofit Race Equity Movement*. Independently published.

2 Find tools and articles at the Management Center, *Hiring*. <https://www.managementcenter.org/hiring-2/> (last visited October 9, 2023).

- » Specifically assess and inquire as to a candidate's alignment with the organization's values and principles
- » Require applicants to respond to a question regarding race equity

There are multiple other ways organizations can act upon their stated commitment to antiracism.³ For example, organizations should:

- » Collect and review demographic data to assess and improve access to and delivery of services — compare who is getting served, and how, by race or LGBTQIA+ status
- » Create safe spaces for staff of diverse backgrounds, such as affinity groups, to support their wellbeing as they navigate ongoing racism, secondary trauma, and lived experiences
- » Invest in third-party providers for trainings, independent assessments, anonymous staff surveys, and facilitated staff conversations on antiracism and its application to internal organizational, systemic, and programmatic practices and policies

Ultimately, to be an effective, values-driven, antiracist organization, a children's law office must have a vision, principles, and goals that incorporate antiracism. Staff throughout the organization must plan to effectively incorporate these commitments into every decision and action. This is a non-stop, iterative process that requires continual learning and adapting to maximize impact.

3 Majors, Dr. Michelle. (2022). *(G)race Equity: Reimagining Equity in the Workplace*. Independently published. See also, Shriver Center on Poverty Law, *Foster System*. <https://www.povertylaw.org/issue/families-communities/foster-system/>; JustLead Washington, *REJI Organizational Toolkit & Guides*. <https://justleadwa.org/learn/rejitookit/>; and Le, Vu. Nonprofit AF. <https://nonprofitaf.com/>.

C.2: Executive Director Development

Carolyn Griesemer, JD & Leslie Starr Heimov, JD, CWLS

VALUES, QUALITIES, AND SKILLS OF EXECUTIVE DIRECTORS

The Executive Director (ED) is responsible for promoting the organization's mission and vision and leads decisions to drive growth. Their duties include collaborating with the Board of Directors (or other oversight body) and their leadership team to develop and implement strategic plans for the firm's development. Learning never stops; an ED must remain current in their understanding of internal and external processes, emerging and best practices, and community needs. By examining trends and new developments, the ED can guide staff to be effective and productive so that the organizational culture continually moves toward the purpose and betterment of the office's mission. An effective director builds their personal and organizational presence on a local and broader level. Maintaining respectful and genuine stakeholder and community relationships serves the dual purposes of ambassadorship and relevancy. As the face of the organization, their community involvement and advocacy drive the organizational success and brand. EDs require patience and determination to remain mission-focused and to be proactive rather than reactive whenever possible. Calm, confident, and mindful responses to temporary setbacks or obstacles instill confidence and result in constant forward momentum. Above all, the ED should be able to communicate a compelling and inspired purpose. When they communicate with funders, the Board, staff, and the community, the ED is a champion for the organization and the children and families it serves, elevating the organization's mission and vision at all times. They lead and motivate by talking about opportunities in an inspiring way with plans to ensure the vision is achieved.

EXECUTIVE DIRECTOR RESPONSIBILITIES

As the leader of the organization the ED is effectively responsible for everything; however, this does not mean the ED does everything. Excellent time management and thoughtful workflow planning includes a focus on an appropriate balance between programmatic and administrative duties. Building a strong, well-resourced leadership team with reasonable workloads and skills to match the assignment, allows the ED to focus on the areas where their title, knowledge, and vision are most needed. In new or smaller organizations where there may be fewer resources, tasks must be prioritized, and projects might be delegated to management or line staff with a particular interest or skillset. These assignments present great opportunities for professional development. Similarly, the Board and pro bono partners can be called upon to ensure that the ED is making the best and highest use of their time and talent.

The ED builds and leads a strong and effective management team. Relationships amongst all staff, and leadership in particular, should be based on mutual respect, shared vision, and trust. Together the management team is then poised to:

- » Establish ambitious goals for excellence
- » Initiate, maintain, adapt, and dismantle programs for maximum impact
- » Create a climate of transparency and open communication
- » Recruit and retain a diverse staff
- » Maintain compliance with relevant workplace and employment laws
- » Build respect for, and visibility of, the organization in its various constituencies
- » Support the overall field in which the organization works

Relationship Building

Gaining relationships with partners such as directors of the child protection agency and other government agencies, community-based service providers, lived experience experts and affinity groups, law office leaders, judicial officers, or local government leaders allows the ED to collaborate on and influence policy change on a broader level. By attending meetings and advocating for the organization's positions, the ED can drive the organization's outreach efforts and advocacy to impact system change for a larger set of clients. In addition, relationship building with funders, both philanthropic and governmental, is key to anticipating and adjusting for future development when funding streams are ever changing. The organization's ability to successfully implement principles of diversity, equity, and inclusion for both their workforce and clients depends, in part, on these important relationships.

Financial Viability of the Organization

For lawyers who are stepping into the ED role, a critical area for immediate skill development is financial management. Being knowledgeable about, managing, and planning for budgeting, accounting systems, balance sheets, cash flow projections, operating reserves, audits, etc., is required for the financial viability of the organization. The ED, along with the Board or other oversight body, is responsible for monitoring financial reports as compared to the budget and modifying operations and programs in response to variances. Financial viability and stability are critical to both organizational health and employee retention. Understanding how to project future needs allows the ED to fund-raise towards that end or plan for shortfalls. The ED develops realistic, ambitious plans for sustainability and growth. The size of the organization will determine how involved the ED is with the finance duties. For example, the ED of a small organization may directly handle accounting duties as well as the fundraising duties whereas a larger organization may have departments/staff for those functions.

Quality Control and Striving for Excellence

The ED provides leadership and oversight for the organization's programs and staff. To ensure high-quality client services, the ED needs to utilize various management tools such as change management strategies, data collection, human resources expertise, policy and protocol oversight, and hiring/retention strategies. An ED with an eye toward continuous quality improvement seizes upon opportunity for improvement, listens to the concerns and ideas of their staff and the communities they serve, celebrates the successes of their team, and is quick to address missteps. Less-than-adequate job performance, or lack of compliance with expected standards, practices, and policies must be attended to quickly and with transparency. Messaging and action regarding job expectations, coaching, performance improvement, and opportunities for growth should be clear, consistent, and equitably applied.

Working with a Nonprofit Organization's Board of Directors

For a children's law office structured as a nonprofit, the ED's relationship with the Board varies widely across the nonprofit world and may change over time within a particular organization. The Board is responsible for financial oversight and hiring and firing the ED. Some boards also take an active role in developing the policies, vision, and mission of the organization. Whatever the structure or dynamic of the Board, the ED must maintain frequent communication with the Board, ensuring that they understand the complexities of the work of a children's law office. The Board cannot effectively support the ED or the organization without a meaningful appreciation of the challenges and importance of the practice area. (The same is true of EDs' relationships with oversight bodies in different children's law office structures — for example, the ED of a state-agency-model children's law office must build relationships and maintain communication with state leadership and congressional committees that control the agency's funding allocations.)

The ED takes an active role in guiding the Board to develop their priorities and to ensure that Board recruitment aligns with the organization's goals for diversity, equity, and inclusion. The ED must be clear and direct about Board expectations and responsibilities, such as fundraising obligations. Straightforward communication at the outset prevents future misunderstandings or ill will. The inclusion of community members or individuals with lived experience on the Board or on a parallel Advisory Board requires thoughtful consideration, differential recruitment and engagement strategies, and a determination of appropriate expectations regarding financial commitment.

EXECUTIVE DIRECTOR DEVELOPMENT

Mentorship

Both new and more experienced leaders benefit from engagement with peers. Being part of a learning community will provide the ED with support, varied perspectives, and opportunities for collaboration. The ED should meet regularly with EDs in their legal services community. If none exists, a group can easily be convened for monthly or quarterly gatherings. Formal and informal mentoring relationships similarly enhance the ED's professional development. There are books, courses, regional and national convenings, and organizations which provide professional development and mentoring opportunities for EDs. Effective Boards and oversight bodies invest in their leaders.

Managing Change

There are a multitude of management articles, books, coursework, and seminars¹ available online and in person. A relatively small investment of time and resources will yield the valuable skill development necessary to effectively manage throughout each stage of the organization's growth — from launch through maturity and renewal. A forward-thinking ED recognizes that change is essential to organizational health.

Some organizational structures, policies, and practices will evolve organically, and others require intentionality. Today's organizational structures, leadership positions, staff resources and strategic partnerships will likely need to be revisited as the needs of the organization, community, and clients change. Tackling these changes on one's own can be overwhelming; working with a skilled nonprofit or executive management consultant can make the process interesting and motivating rather than stressful or frightening.

Succession Planning

Succession planning ideally begins long before any expected change in leadership. Most broadly, succession planning is working to ensure the development of a robust pool of internal candidates for future promotional opportunities, including but not limited to the ED position. Offering coaching, training, and increased responsibility to current employees will cultivate the next generation of leaders. This can include offsite trainings, development of a new project, representing the organization at stakeholder or system meetings, interacting with the Board or other oversight body, exposure to the budget process, delegating supervision of an area typically handled by a more senior employee, and more. Creating a culture of open communication, where staff can share their career goals or life changes which might impact longevity with the organization, will help the ED to plan for staffing changes. Conducting organizational assessments will help identify both gaps and strengths and will aid in the development of a strategic succession plan. Ideally, the ED, the Board, and the organization's management team will initiate a succession planning process such that when the ED is ready for their next chapter, the organization is ready for a smooth transition.

¹ See, e.g., Green, A. & Hauser, J. (2012). *Managing to Change the World: The Nonprofit Manager's Guide to Getting Results* and One Justice's Executive Fellowship Program. <https://onejustice.org/executive-fellowship/>; Shriver Center on Poverty Law. *Course: Supervising for Quality & Impact*. <https://www.povertylaw.org/events/overview/supervising-for-quality-impact/>.

C.3: Engaging Lived Experience Experts and Staff

Cristal Ramirez, MS & Kimberly Watson, JD

Integrating lived expertise at all levels of an organization takes a significant degree of intentionality. Additionally, engaging and supervising professionals with lived experience in children's law offices, no matter what the role, requires preparation, thoughtfulness, and support. For those professionals whose job function is directly related to drawing from their lived experience in foster care, supervision must be thoughtful, considering how the position may innately trigger the staff's own personal history and wounds. Such consideration should start as early as during the hiring process and continue as regularly as weekly or monthly during supervisory check-in meetings.

HOW TO RECRUIT AND VALUE LIVED EXPERTISE IN HIRING

Staff who have personal experience with the system in which they are working are an asset to a children's law office. Staff who grew up in foster care have a keen insight into how to approach the youth that the organization serves. Such staff may include a receptionist who appreciates how important it is to appear welcoming and relatable in the front office or the peer advocate who understands the importance of having tough conversations with youth who are struggling with accountability. Staff with lived experience inform best practices in the provision of high-quality legal representation.

Children's law offices must keep in mind important considerations when recruiting staff who have lived experience. First, include clear expectations and requirements in job postings. Such clarity ensures that the employee is set up for success and fully understands what will be required of them if offered the position. Such expectations also serve as a foundation to redirect the staff member when coaching is needed during the course of their employment. If the position will require them to directly draw upon their experience as a former youth in foster care, state this in the posting and interview. This allows the applicant to decide whether or not this is a position they feel professionally and mentally ready for.

Second, be thoughtful about interview questions. Consider that applicants with lived experience are applying to work in a field that may innately evoke pain, trauma, and deep emotions. In addition to basic questions that go to the applicant's ability to perform the job functions, questions should be included to assess the applicant's readiness to engage intimately with a system to which they have close ties. Such questions may include: *What strategies have you learned in setting boundaries for yourself and dealing with difficult situations?* or *How do you practice self-care?* Questions like these will give the applicant an opportunity to express desirable qualities such as self-awareness, knowledge of their emotional triggers, and having a plan of how to care for themselves in a professional setting.

Finally, consider giving preference to applicants with lived experience. Staff with lived experience can and do hold various positions throughout children's law offices. Similar to bilingual skills, expertise tied to a person's lived experience in foster care is a benefit to the children's law office in helping clients feel understood — and a client who feels understood is more likely to trust their legal advocate. Consider giving salary credits to staff whose specific role requires them to draw from their personal experience in foster care. This can support benefits like ongoing mental health therapy, which in turn supports staff retention. Specific positions, such as peer advocates, might have more of a tendency to be exposed to their emotional triggers in the course of their work with youth in foster care.

SUPERVISING STAFF WITH LIVED EXPERIENCE

The Supporter and Advocate

A supervisor for any professional with lived experience in foster care must focus their supervisor-supervisee relationship on support and advocacy. The supervisor provides support in coaching the staff members in how to do their job well, including how to troubleshoot difficult situations. Staff with lived experience may come in with little to no experience, and this may be their first job in a professional setting. They need to be taught the basics of their job function: case management, how to navigate challenges with clients, how to communicate well with attorneys, etc. Supervisors might engage in direct observation of staff member responsibilities; for example, the supervisor may observe an administrative assistant's phone conversations or interactions with colleagues to give pointers on how to communicate confidently. One-on-one training and modeling can be useful techniques, as well as shadowing other more senior employees who have lived experience. Shadowing allows the newer employee to observe how other staff have navigated the job's challenges, such as dealing with emotional triggers or preventing burnout. It also encourages the idea that there are various ways to successfully do the job, and not necessarily one right way and can help give the staff members the freedom to make the position their own.

Keeping open lines of communication is paramount. Supervisors of staff members with lived experience should be approachable, empathetic, good problem-solvers, nonjudgmental, patient, supportive, and effective communicators. Professionals with lived experience may struggle with many feelings in their position: frustration, fear of failure/making mistakes, triggers, etc. A good supervisor must allow space during one-on-one meetings to navigate these issues and discern how they may be affecting the staff member's ability to do their job. This includes the basic strategy of valuing staff by regularly giving examples and positive feedback. Staff with lived experience may require more processing time (with a supervisor or themselves), therapeutic support, or time to debrief with a colleague in order to successfully remain in the position.

The Protector

Staff with lived experience should decide for themselves if and when they want to disclose their story to other staff or clients. It is *their* story and they should have full autonomy over it. Often, children's law offices, however well-intentioned, expect or ask staff with lived experience to share their stories in staff trainings, policy meetings, or other forums. This practice can often leave staff with lived experience feeling exposed in their place of work in a way that their colleagues without lived experience are not.

Staff with lived experience should not share their foster care experience in a public work setting until they are mentally and emotionally ready for that type of exposure. If they do decide to share, a supervisor should help them prepare, asking questions like *What information feels safe to share? What information feels unsafe? What are your boundaries on sharing? If you end up sharing something that feels too exposing, who is your safe person to reach out to and debrief with?* This provides a framework for those staff who feel ready and passionate to use their story to push forward change in the child protection system in a way that feels safe.

Supervisors should check in with staff regularly about their general wellbeing and spot any signs of burnout. Circle back to the questions in the interview process about the then-applicant's self-care techniques. Now that the applicant has been hired and is in the position, do those same self-care techniques work? Regularly help staff identify self-care techniques, including taking time off as appropriate and needed. Staff with lived experience might avoid taking time off in an effort to appear hard-working and valuable. Encourage camaraderie with other colleagues who have lived experience

during team-building activities. This can help staff develop a safe space where they can vent and get advice from other staff who may be having similar struggles.

Teach professional boundaries and do not “lower the bar.” Being cognizant of a staff member’s lived experience does not mean coddling them or lowering expectations because of their history in foster care. Professionals with lived experience have the same capacity to be successful — their path just may look different. If they have recently exited care, staff with lived experience may just need more support in learning how to present themselves in the professional sphere.

THE YOUTH ADVISORY COUNCIL

Child protection professionals are beginning to better incorporate “youth voice” into advocacy. This comes in part from a realization that children often know what is in their best interest. It also encourages youth to take an active role in major decisions that determine their life trajectory.

Efforts such as youth advisory councils should not be in name only. A youth advisory council is a group of youth currently or formerly in foster care who use their experiences in foster care to make collective recommendations about policy and practice changes to an organization. An organization can utilize various routes to create such a council. It can survey interest from clients who are aging out. It can also create a job description and post in forums where youth formerly in foster care may gather, such as community programs, housing programs, etc. Care should be taken to make sure the council brings in members with diverse experiences in foster care: youth who lived in group homes, youth who had issues with sibling visits, expectant and parenting youth, youth who were commercially sex trafficked, youth with both foster care and juvenile legal involvement, etc. This ensures that the council’s recommendations are well rounded and thoughtful.

Recommendations made by a youth advisory council about changes that need to be made in the child protection system or the children’s law office should not stay on paper. They should be considered and incorporated into the very fiber of the children’s law office. A youth advisory council should actively participate in creating and reviewing the office’s strategic plan, developing staff trainings, or creating and administering a survey to current clients about their experience receiving legal representation from the organization. The council’s recommendations should be referenced when decisions are being made about the organization’s practices. This is the only way that true radical and genuine change will happen — hearing from the actual young people who are most directly affected.

Because the time spent on youth advisory councils can be considerable, an organization should set aside a budget from which they can compensate the council members for their time. Such compensation should adequately and respectfully reflect an appreciation of how council members’ expertise significantly improves the overall practice of the organization.

C.4: Supervision

Janet L. Barnes, JD, Charles P. Golbert, JD & Alpa Jayanti Patel, JD

Supervisors in a children’s law office are responsible for setting and continually elevating high standards for child-client representation. Effective supervisors foster the professional growth of staff across all disciplines, recognize and attend to stressors affecting staff, and responsibly use resources.

CULTURALLY RESPONSIVE SUPERVISION

Supervisors in children’s law offices must establish an environment where cultural diversity is not only tolerated but embraced and celebrated. Culture includes both external markers (age, ethnicity, gender expression, race, religion, sexual orientation, class, size, weight) and internal factors (values and beliefs).¹ No one can know and understand all cultures, but culturally responsive supervisors appreciate cultural differences and similarities between people, enable attorneys to identify and improve upon their own cultural strengths and weaknesses, and demonstrate appropriate ways to discuss cultural issues during supervision.² Bringing culture into the supervision and case consultation process helps attorneys and non-attorney advocates recognize how their assumptions or biases impact their work with children and families. It also creates an environment where differing perspectives are encouraged, which in turn increases advocacy and promotes stronger representation of child clients. In addition to acknowledging and appreciating cultural differences, a supervisor should strive to create a welcoming physical office environment (if applicable), with affirming messaging, signage, posters, and artwork. If the children’s law office maintains a physical space, collaborate with building managers to install gender-neutral bathrooms when possible.

Culturally responsive supervisors have humility and are open about what they do not know about race, culture, and identity. Examples of how supervisors create a culturally responsive environment include:

- » When a new person joins a team, the supervisor sends a welcome email with their pronouns included in their signature line
- » When uncertain, supervisors ask how to pronounce a person’s name before doing so
- » When first meeting a supervisee, supervisors state their pronouns when introducing themselves so the supervisee feels comfortable doing the same
- » When establishing initial work expectations, supervisors explain that cultural discussions are not only welcomed, but encouraged. As cultural issues arise in relation to client demographics and representation, they should be recognized and discussed
- » Supervisors talk about their background and experience with the supervisee. A supervisor’s willingness to share gives the supervisee permission to do the same
- » When discussing the immediate challenges clients and their families face, supervisors acknowledge the impact of racism and poverty on the disproportionate representation of Brown, Black, and Indigenous families in the child protection system
- » When a supervisee identifies cultural biases in how a child or family is being treated, whether by the court, a child protection agency, or even the children’s law office, supervisors acknowledge the concern and its validity and discuss strategies to address it

1 See Soni, A., Fong, H. & Janda, T. (2021). *Culturally responsive supervision: a reflective account on the value of acknowledging and working with difference within supervision. Educational and Child Psychology, 38(4).*

2 See *Id.*

- » Supervisors ask for, and are open to, different points of view during case consultation. A simple way to do this is to ask, "Is there anything we are missing here?"

CASE CONSULTATION

Case consultations on child law cases (i.e., one-on-one meetings between a supervisor and attorney which may also occasionally include subject matter experts, clinicians, and social work staff) must be child-centric and individualized.

Supervision may be different for each attorney and case depending not only on the attorney's level of experience, but also on the legal and social complexities of a child's case. Effective supervision of a less experienced attorney is not about telling them what to do, but rather about helping them build litigation and client-counseling skills, gain knowledge about legal issues and how social services impact the child client, understand why certain strategies are appropriate in one case but not another, and expand the attorney's capacity to do the challenging work of child representation in a culturally responsive way. By contrast, effective supervision of experienced attorneys requires an approach that respects the experienced attorney's knowledge base and skills, supports their stated strategies and advocacy, encourages them to mentor less experienced attorneys, and cultivates their growth as a future solution-oriented supervisor.

Supervision should be child-focused and provide clear direction, while also providing ample opportunity for collaboration. For example, though a supervisor directs an attorney to file a particular motion in a child's case, the specific rationale, argument, and case citations used in the motion can be collaborative as the attorney has more contact and communication with the child and caregivers.

Sample supervisor questions to guide a case consultation:

- » How are you preparing for the upcoming hearing/meeting?
- » What information have you been able to gather thus far?
- » What information do you still need? How can I help you follow up on that?
- » Have you thought about your strategy to approach the upcoming hearing/meeting? Explain why you want to use that approach.
- » Do you think we are missing anything here?
- » Any concerns or worries? What can I do to help you work through those concerns?
- » There is case law that may be on point. May I share it with you and we can talk about it?
- » If the outcome is not what you expect, would you like to discuss next steps?
- » Have you thought about digging a bit deeper into that particular issue?
- » Have you contacted a subject matter expert about this issue?

Whenever possible, case consultations should incorporate a multidisciplinary approach — including attorneys, clinicians, and subject matter experts in the conversation. The best advocacy for child clients comes about when there is space for differing opinions. Hearing differing perspectives during case consultation also lessens the likelihood of an attorney advocating with tunnel vision and thereby avoids potential pitfalls. For example, when an attorney represents a client who wants to be adopted, and the attorney believes the evidence supports termination of parental rights, including an appellate law attorney in the consultation helps the attorney anticipate unforeseen evidentiary and legal challenges that may arise during a termination proceeding, may ensure a stronger appellate record and avoid unnecessary delay, and will help the attorney appropriately counsel the client. Another example is an attorney representing an undocumented seventeen-year-old client, who indicates that she wants

her child protection case closed. Including an immigration law subject matter expert in the consultation enables the attorney to appropriately counsel the client about the legal consequences of case closure and ensures that all prerequisites have been met to enable the client to apply for legal immigration status if she wants to once she is no longer in care. When done well, supervision is curated and unique to each attorney and is supported with ongoing mentorship by non-supervisory attorneys and subject matter experts, as well as training and development.

CO-COUNSELING

For attorneys representing children, successful client representation comes about from an amalgamation of vigorous training, modelling, observation, and feedback. One strategy is for the supervisor to take a more active role in the case and become co-counsel to the attorney. Although co-counseling may be used more frequently with inexperienced attorneys, experienced attorneys may also benefit from a co-counseling approach when faced with particularly challenging issues. For example, in a child abuse case with numerous medical experts and law enforcement personnel involved, the attorney and supervisor can work together and divide preparation and witness examination responsibilities.

For inexperienced attorneys, co-counseling can be an essential component of developing their practical client counseling and trial skills while also cultivating the attorney's analytical skills. For example, the supervisor may assign a complex case to a less experienced attorney and second chair the trial, and review the facts, evidence, and theory of the case with the attorney, as well as help with legal research.

OBSERVATION

Meaningful supervision requires observation. Supervisors must observe staff's skills not only in court, but also in various contexts such as client interviews, meetings with stakeholders (such as caretakers, caseworkers, clinicians, etc.), and administrative proceedings. Supervisors should observe the attorney's litigation skills and approach to analyzing problems, critical decision making, cultural responsiveness, professionalism, preparedness, and knowledge of case and administrative law, statutes, and court rules. During client interviews, supervisors should observe rapport-building skills, use of open-ended questions over leading questions, and active listening. However, observation in and of itself is insufficient to promote learning and growth. Supervisors must provide timely feedback so that staff can develop and make improvements.

EVALUATIONS AND FEEDBACK

Performance evaluations should be timely and specific — especially for less experienced attorneys. The first performance evaluation for attorneys new to the organization should occur no later than six months after the attorney's start date. Thereafter, performance evaluations should take place at expected intervals with a frequency that coincides with the attorney's developmental milestones and focus on identifying strengths and areas for growth. Evaluations should also incorporate goals (both short-term and long-term) using the SMART method (goals that are specific, measurable, achievable, relevant, and time-bound).

Providing feedback between performance evaluations (whether positive, developmental, or corrective) is also essential. Although it might be tempting to avoid providing feedback that might be uncomfortable or unpleasant, avoidance helps no one. Addressing performance challenges in a

timely, specific, and prescriptive manner not only allows the attorney an opportunity to course-correct where needed, but also for the supervisor to identify and provide necessary additional support.

Considerations when giving feedback:

- » **Timing:** When will the supervisee be most receptive? Is it necessary to give immediate feedback to correct an issue, or can it wait? For example, although prompt feedback is usually preferable, a lawyer might not be in a frame of mind to meaningfully process feedback immediately after a particularly contentious case or adverse ruling.
- » **Be specific and avoid generalities:** Share examples of where the attorney could improve and provide resources to make the improvements. For example, if an attorney is observed struggling to conduct a direct examination in court, simply telling the attorney to work on trial skills is not effective. Instead, share resources (such as practice tips from bar journal articles, trial advocacy manuals, and observation of and mentoring by more experienced attorneys) to help develop the skills needed to conduct an organized and thorough direct examination.
- » **How much feedback is enough?** In order to be effective, feedback needs to resonate with the person on the receiving end. Too much corrective feedback given all at once can be overwhelming and defeating. Consider giving corrective feedback in manageable micro-doses, interspersed with positive feedback whenever possible.
- » **Environment/context:** Meaningful and productive feedback requires planning and thoughtfulness. For example, an email to an attorney outlining all the areas requiring improvement, including examples as well as resources on how to make those improvements, might be efficient but also inconsiderate and not productive. When planning to provide feedback, whether it is positive, developmental, or corrective, consider the setting and time — in-person, virtual, phone, Monday morning, mid-week, or right before the weekend? Also consider that the supervisee might be most receptive when there are fewer interruptions and distractions. Give the supervisee space to also share feedback during the conversation about what was discussed — including any questions or concerns. When appropriate, ask the supervisee to share feedback on the supervisor's performance. Finally, end the conversation with a brief recap of what was discussed, next steps, and a date for a follow-up meeting.

SUPERVISOR SUPPORT/TRAINING

In most instances, an attorney supervisor in a children's law office has exceptional legal and advocacy skills. Often, however, they do not have management and HR experience. Children's law office leadership must invest in its supervisory team by providing continual guidance and direction on management and HR issues. Such support creates a healthy, positive, and collaborative work environment. Investing in developing supervisors' management and HR skills also aids in succession planning. An additional support for new supervisors is matching them with experienced supervisors to mentor and troubleshoot on various factors such as managing workflow, providing timely and constructive feedback to staff, being responsive to the needs of staff, and identifying when to escalate a personnel matter to office leadership. Some of the topics supervisors should be trained on include research on how different people learn, cultural humility, time management, generational differences in the workplace, conflict resolution, interpersonal skills, and qualities of good leaders.

HANDLING GRIEVANCES/COMPLAINTS

A generally unpleasant duty for any supervisor is addressing grievances and complaints about attorneys which may be reported by a child client, caretaker/foster parent, parent and/or their counsel,

social service provider, the judiciary, and other internal staff. Regardless of the source or subject of the grievance, an effective supervisor must address it in a timely, respectful, sensitive, and fair manner. A supervisor must be trained to identify grievances that they can address on their own, and when a grievance requires input and support from the office leadership and/or HR staff.

INTERNS

Legal, social work, and paralegal interns increase the amount of advocacy that children's law offices can provide to children. Additionally, children's law offices can give back to the child law community at large by being a training ground for the next generation of advocates. Children's law offices must provide robust training and experiences during the intern's tenure — for example, courtroom appearances, field interviews, case preparation, client counseling, and communicating with social service providers and caretakers. The intern should report directly to one staff person who has received mentor training. That staff person should coordinate all assignments from other staff members for the intern. This ensures that assignments and workload are appropriate and that the intern receives a variety of substantive projects from multiple staff members. Children's law offices should create evaluation forms specific to the intern's specialty and give feedback at regular intervals before the intern completes their program.

C.5: Pathways to Leadership

Dawne Mitchell, JD

A fundamental principle of leadership is to empower other people. Organizational leaders must strive to create conditions where authenticity can thrive and where staff can fully realize their capacity. A key objective of management and supervision of staff must include assisting staff in discovering their short- and long-term goals, while also introducing value-added opportunities for advancement. The development of staff is a central responsibility of all managers.

COMMITTING TO A LEADERSHIP CULTURE ENHANCES STAFF ENGAGEMENT AND GROWTH

In this post-pandemic era, the workplace has grown to be less predictable and more uncertain as offices strive to maintain a high-achieving, motivated, cohesive, and collaborative workforce. Notwithstanding the challenges of underfunding and high caseloads in children's law offices, managers now recognize that they must adopt different strategies for the sustainability of the office's most valued assets — its people.

Building a leadership culture in children's law offices is critical to the sustainability of the workforce. The potential for learning and development in every moment can drive positive morale and enhance overall client services. During the pandemic, children's law offices recognized the need for strong leadership throughout the organization at every level to overcome the myriad challenges facing their offices and staff.

A principal objective of a leader is to positively affect morale, recruitment, and retention, as well as learning and development. Children's law offices can benefit from adopting a "growth mindset." Managers should ask what opportunities for professional and personal growth exist amidst uncertainty, challenges, scarcity, and the demand for the delivery of quality legal services. A growth mindset is not based on intelligence or effort, but rather outlook — managers must advance new ways of thinking about how to learn and grow from situations at work and in life.¹ When managers embrace a growth mindset, their staff feel empowered and committed; they also receive greater organizational support for collaboration and innovation.

This framework motivates the leadership culture of the organization across all positions. Managers must be intentional in shaping the growth mindset for each member of their team to ensure professional development, which is a central strategy in delivering high-quality legal services for clients. One useful and meaningful activity for all managers is to incorporate the practice of completing growth plans for all staff.

CREATION OF STAFF MEMBER GROWTH PLANS

In an authentic way, introduce and establish a growth plan for each staff member — this will ignite crucial conversations about professional goals and innovation. For some staff it will be an introduction to their path to leadership. Ideally managers set aside separate conversations to develop the growth plan and then incorporate ongoing conversations as a part of regular supervision. By creating a roadmap with stated learning and skill development objectives, the manager sets out a plan that is individualized and intentional. The plan must center and value the employee's capacity and develop-

¹ Dweck, C.S. (2007). *Mindset: The New Psychology of Success*. Random House Publishing Group; see also, Carol Dweck: *A Summary of Growth and Fixed Mindsets*. (n.d). Farnham Street. <https://fs.blog/carol-dweck-mindset/> (last visited October 12, 2023).

ment needs, build upon existing skills, state specific and measurable goals, and align with the organization's mission.

A growth plan is a working tool that should use a SMART (specific, measurable, attainable, relevant, and time-bound) framework and include the following components:

- » Goals of supervision focused on expanding knowledge and advancing substantive technical and soft skills, as well as leadership skills
- » Learning and development objectives
- » Incorporation of the employee's self-assessment and identified needs and professional development goals
- » Stated strategy and resources

Adopting a plan that identifies leadership competencies for all staff ensures development opportunities are inclusive and not just available to the "star" or "favorite" employee. Establishing growth plans for all staff tie diversity, equity, inclusion, and belonging values to action steps across the organization. Fully inclusive management strategies increase the number of diverse staff who seek promotional opportunities.

SUPERVISION AND COACHING

During supervision, the manager can implement and execute growth plan targets and strategies. Regular one-on-one supervision meetings create the ongoing opportunity for agility and fusion of evolving perspectives. These one-on-one meetings are intended to harness opportunities to teach and reteach the subject matter and skill-build while reinforcing alignment with the organization's mission and core values. And most importantly, these meetings reinforce the manager's commitment to professional development and the investment in achieving goals together.

Development of a growth plan is not to be confused or conflated with a performance review. Instead, these plans are highly effective leadership tools that motivate regular staff engagement and encourage authenticity, accountability, emotional intelligence, and the emergence of leadership among staff at every level.

A growth plan identifies critical leadership competencies. This encourages the staff, through self-assessment and reflection, to identify their strengths and development needs. Managers can identify next steps and collaborative strategies by asking the employee:

- » What are your strengths?
- » Where would you like to be (in your career) in five years?
- » What does achievement look like?

Incorporating a coaching style designed to help individuals overcome challenges, realize their potential, and maximize success is a strategy that sets great managers apart. Coaching may be appropriate for promising or established employees who need guidance and support to achieve their goals. Good coaching values vulnerability and opens a path to regular feedback, reflection, and access to a different perspective. A leader that coaches effectively is seen as a mentor who supports employee growth and nurtures the employee towards achieving their highest levels of performance. Moreover, a leader that incorporates a coaching style in supervision reinforces for employees that the practice of skill development and leadership is not just about exercising authority, but it is also about genuine care and support.

IDENTIFYING AND EMPOWERING EMERGING STAFF LEADERS

Encouraging managers to adopt a growth mindset will produce the emergence of leaders in every position, motivate staff, and increase collaboration and innovation. Embracing ideas and initiatives of staff that feel empowered to lead, grow, and elevate innovation is key to establishing their path to leadership. Motivated staff will be driven and encouraged to contribute differently. When identifying high-performing staff for potential leadership roles, managers can look to these examples of high-level collaboration, innovation, and problem solving as indicators of strengths and ability. Furthermore, managers can also use these experiences to identify staff to lead global projects that encourage input in big-picture issues and solutions. For example, managers can:

- » Empower staff to serve on a committee that identifies strategies to maximize efficiency
- » Assign opportunities to represent the organization in internal and external stakeholder meetings/roundtables
- » Identify opportunities to facilitate subject matter and skill-based trainings
- » Consider time-limited special assignments or fellowships to allow current staff members to work exclusively on a priority, client-centered, systemic, or novel issue. Such projects can lead to policy reforms, practice improvements, increased knowledge, and cause-based solutions

The path to leadership is not about the pursuit of a position title; it is a shift in mindset and recognizing the critical importance of a workplace culture where people are empowered to lead from every position.

SUCCESSION PLANNING STRENGTHENS THE ORGANIZATION'S CAPACITY

A succession plan identifies future staffing needs, critical organizational positions, the people with the skills and potential to perform in these future roles, and action plans for individuals to assume those positions. Leaders must consider the organization's current and future goals to ensure that staff are in the right positions to address forecasted needs of the organization's model. To carry out a succession plan, the organization must engage managers in the process. The strategies outlined through growth plans, supervision, and coaching frame the objectives of developing a pool of talent to step into critical positions. In addition, succession planning ensures staff understand the organization's needs and critical positions necessary for continuity, as well as skills and competencies needed for leadership roles. This proactive planning also allows managers to capture the information and knowledge that individuals possess before departing the organization, a key to ensuring continuity.

LEADERSHIP LEARNING AND DEVELOPMENT TRAINING

Most managers strive to be known as great leaders. Assisting staff in discovering their own leadership potential through intentional learning and development opportunities helps them understand the sources of leadership, embrace the idea of change, and see challenges as opportunities. Managers can encourage and support a culture of leadership by:

- » Introducing activities in team meetings and retreats that allow staff to identify areas for skill building and acknowledge key competencies of leadership
- » Establishing a core training curriculum that includes such topics as effective communication styles for leaders, delivering radical candor, conflict management, ethics, relationship building, and motivational coaching
- » Convening quarterly leadership collectives and full-day trainings for all managers, to afford the opportunity to hear from guest presenters and engage in high-level learning on various leadership topics

D : PROGRAM: PROVIDING HIGH-QUALITY LEGAL SERVICES

D.1 : Core Competencies

Allison Green, JD, CWLS

In the busy day of a children’s lawyer, how should they manage their limited time and resources? Amid a seemingly endless array of client emergencies and needs, how can children’s law offices guide attorneys about how best to direct staff energy and focus? Children’s law offices should identify the core competencies of high-quality legal representation, and then use these competencies and duties to structure hiring, supervision, and administrative practices.

WHY CORE COMPETENCIES?

Identifying a uniform set of core competencies and duties for children’s attorneys has many advantages. First, it helps set clear and consistent expectations for potential staff, from the job description, to recruitment, to interview questions. Once hired, a focus on these competencies can shape attorney training plans, supervision oversight, and evaluation processes.

Second, core competencies provide a common language and areas of focus for retention, professional development, and promotion. For example, a law office might expect a brand-new attorney to draft a simple motion and integrate edits from a supervisor. A more experienced attorney may be expected to draft complex pleadings, with less supervisory oversight. Veteran attorneys may be expected to draft their own pleadings and to help brainstorm with colleagues.

Third, core competencies also mitigate bias in the evaluation of attorney performance. They help managers interrogate whether their assessment of staff work is neutral or influenced by personal judgment (e.g., “that’s how I’ve always done it!”). Core competencies distinguish the attributes needed to effectively represent children from those qualities that are simply preference, tradition, or inherited practice. When all attorneys within a department or office are assessed against predetermined, objective criteria, children’s law office leaders are better able to make meaningful assessments of attorney work, provide feedback, and maintain buy-in from staff.

Finally, core competencies ensure high-quality legal representation for clients by promoting the key skills, practices, and areas of knowledge necessary for excellent legal advocacy.¹ Children’s law offices must strive to provide a consistent quality of legal services; core competencies and duties are fundamental to that effort by defining what success looks like at all stages of attorney practice.

WHAT ARE THE CORE COMPETENCIES OF CHILDREN’S LEGAL REPRESENTATION?

In 2021, the National Association of Counsel for Children (NACC) revamped its best practice recommendations for children’s legal representation. The *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*² (NACC Recommendations) were co-designed by the organization’s National Advisory Council on Children’s Legal Representation, which is comprised of young professionals with lived expertise in the child protection system. The NACC Recommendations also incorporate input from interdisciplinary experts, NACC staff and Board members, and

¹ See also, Chapter II.B.3: Training and Mentoring.

² National Association of Counsel for Children. (2021). *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*. <https://naccchildlaw.org/standards-of-practice/>.

attorneys practicing in the field nationwide. They draw heavily upon decades of research and policy reform in this evolving field.³

NACC's Recommendations are divided into ten primary attorney duties. Briefly summarized below, readers are strongly urged to examine them in full. Children's law office leaders should consider these principles as a starting point for drafting core competencies within their children's law office, adapting them to the specific contours of their jurisdiction's practice.

1. Establish an Attorney-Client Relationship

Attorneys should treat their child clients as experts about their own lives, well-situated to provide information and set case goals. When assigned to represent very young or non-verbal clients, attorneys must be able to assess for diminished capacity and exercise substituted judgement, consistent with ABA Model Rule of Professional Responsibility 1.14.⁴

2. Support the Attorney-Client Relationship

Attorneys for children and youth should maintain frequent contact and intentional communication, tailored to the client's individual circumstances (e.g., different locations, activities, phone/text), while also ensuring contact at least prior to and after each court hearing, after any placement change, and no less than monthly.

3. Offer Legal Counsel and Advice

Attorneys for children and youth have an ongoing, affirmative duty to advise clients of their rights, educate them about the legal process, inform them of their options, and counsel their decision making. They should be adept at client counseling in a developmentally appropriate, trauma-informed, and culturally responsive manner.

4. Ensure Opportunity for Full Participation

Attorneys for children and youth should proactively ensure opportunity for meaningful participation in court hearings and other case events, such as team meetings. This includes preparation of the client before each event, advocacy to ensure in-person participation if the youth wants to attend, and routine debriefs.

5. Provide Competent Legal Representation

Attorneys should understand applicable laws, regulations, court rules, ethical duties, essential skills, agency policies, and relevant social science. They should also receive initial and ongoing training on cultural humility, the impact of systemic racism, and disproportionate and disparate outcomes experienced by Black and Indigenous children and LGBTQIA+ youth.

6. Provide Loyal and Independent Legal Representation

Attorneys should uphold the client's dignity and only speak about the client in strengths-based, respectful terms. They should independently investigate and litigate cases — collecting, but never solely relying on, information from other parties — and zealously advance the client's goals with reasonable promptness.

3 See, e.g., American Bar Association. (2011, August). *Resolution: Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings*. https://www.americanbar.org/content/dam/aba/administrative/child_law/aba_model_act_2011.pdf; QIC ChildRep. (n.d.). Home page. <http://www.improvechildrep.org>; U.S. Department of Health and Human Services, Administration of Children and Families. (2017, January 17). *High Quality Legal Representation for All Parties in Child Welfare Proceedings*, Log No: ACYF-CB-IM-17-02. <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>.

4 ABA Model Rules of Professional Conduct, Rule 1.14. (n.d.) American Bar Association. https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1.14_client_with_diminished_capacity/ (last visited October 12, 2023).

7. Maintain Confidentiality

Attorneys should create confidential spaces for children and youth to discuss, ask questions about, and receive advice on complex, emotional, and potentially lasting decisions. They should routinely advise clients about the boundaries of privilege and confidentiality and ensure that other protected information — such as medical and mental health records — is not disclosed without consent.

8. Advance Equity in Legal Representation

Attorneys for children and youth should engage in culturally humble representation and actively challenge inequitable treatment. They should engage in ongoing learning, consult experts to provide culturally informed recommendations, and be receptive to constructive feedback. They should also demonstrate insight and self-reflection about their own biases and privilege, seek supervisory and peer consultation, and litigate evidence of discrimination that impacts the client.

9. Provide “360°” Advocacy

Attorneys for children and youth must provide holistic advocacy. To do so, they should endeavor to develop a “360°” understanding of their client’s life, rigorously test and refresh that understanding to avoid assumptions, and promote a case theory and holistic case plan tailored to the client’s individualized needs. They should be keen issue-spotters and swift actors on a variety of collateral legal issues that commonly arise, such as educational rights, housing, public benefits, immigration status, disability rights, criminal-legal system involvement, and more.

10. Preserve Continuity of Legal Representation

Attorneys should strive to maintain continuity of representation at all times and avoid unnecessary case transfers. This begins with attention to self-care practices that will enrich the quality of attorney work and sustain their longevity in the field. When continuity of representation is not possible, attorneys must engage in proactive planning to minimize the negative impact that turnover has on the timeliness and quality of representation.

FURTHER RESOURCES

Resources to consider in developing core competencies for children’s legal representation include:

- » American Bar Association. *Standards for Lawyers Who Represent Children in Abuse and Neglect Cases* (1996), https://www.americanbar.org/content/dam/aba/administrative/child_law/repstandwhole.pdf
- » Child Welfare Capacity Building Collaborative. CapLEARN’s Quality Legal Representation E-Learning Course. <https://learn.childwelfare.gov>
- » Duquette, Donald. *How to Improve Legal Representation of Children in America’s Child Welfare System*. University of Michigan Law School Scholarship Repository (2022), https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1343&context=law_econ_current
- » Family Justice Initiative, Resources and Tools (2023), <https://familyjusticeinitiative.org/resources/fji-publications/>
- » U.S. Department of Health and Human Services, Administration of Children and Families. (2017, January 17). *High Quality Legal Representation for All Parties in Child Welfare Proceedings*, Log No: ACYF-CB-IM-17-02. <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>
- » Green, Allison, Pisani-Jacques, Kristen and Ramirez, Cristal. (2022). “Lawyers for Children.” *Child Welfare Law and Practice: Representing Children, Parents, and Agencies in Neglect, Abuse, and Dependency Cases, 4th Edition*. Chapter 31. National Association of Counsel for Children. Available at <https://naccchildlaw.org/product/the-red-book/>

D.2: Cultural Humility and Antiracist Practice

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High-quality legal services are more likely to be delivered when legal practitioners understand and consistently practice in a culturally humble and antiracist manner. Such practice deepens partnerships between lawyers and clients and enables legal strategies and advocacy to proceed purposefully. To do this, children's law offices should set the expectation that practitioners, in client interaction and advocacy strategy, intentionally consider important facets of a person's identity such as their culture, age, ability, socioeconomic status, gender identity, sexual orientation, strengths and weaknesses, and supports, as well as barriers like bias and racism within institutions and systems.

CULTURAL HUMILITY

Cultural humility describes one's deference and respect for someone's culture, and the dynamic and lifelong process of self-reflection that allows one to acknowledge their own background and recognize that identities shift over time.¹ Cultural humility acknowledges that everyone has biases which impact expectations, norms, analysis, and decision making. For example, one could have a preconceived idea about the worthiness of a parent to have their child returned due to the parent's preference for multigenerational housing or certain discipline practices. In the past, practitioners talked about "cultural competence," but that term erroneously suggests there is a categorical knowledge of a group and suggests that there is an endpoint to becoming fully culturally aware. There is not.

A culturally humble legal practice increases client engagement when practitioners learn and practice with the intention to honor and respect clients' identities, beliefs, customs, and values. Cultural humility has the potential to improve client outcomes by providing zealous representation in a contextual way that incorporates aspects of the client's identity and culture. Cultural humility also develops deeper partnerships when complex power dynamics are recognized and corrected. Addressing these power imbalances ensures that lawyers do not inadvertently disempower or disrespect the people who turn to them for representation. Three key components of cultural humility that children's law offices should encourage all staff to practice are:

- » Engaging in introspection
- » Intentionally viewing the client with openness and a readiness to learn
- » Committing to preserving and promoting all of the client's identities

Engaging in Introspection

Questions to promote introspection include:

- » What is influencing your decision making?
- » What factors are you considering?
- » What assumptions are you making?
- » What are the largest parts of your identity? Your gender? Your role as a lawyer? Your role as a father?
- » How does your sense of identity shift based upon the setting or over time?

¹ There are many resources to engage in further learning about cultural humility. See, e.g., University of Oregon Division of Equity and Inclusion. (n.d.). *What is Cultural Humility? The Basics*. <https://inclusion.uoregon.edu/what-cultural-humility-basics> (last visited October 9, 2023).

- » What assumptions or biases do you hold about people different from yourself? For example, how do you view someone that is a single parent? Who smokes marijuana? Does not speak the dominant (White) culture's English? Lives in a certain neighborhood or zip code? Has not "pulled themselves up by their bootstraps"?

Intentionally Viewing the Client with Openness and Being Ready to Learn

Lawyers and those with higher-education privilege can often find it difficult to set aside their opinions in order to listen to and respect the client's voice. Lawyers must not approach their representation with expectations or judgments about the client, their families, or their communities. Allow the client to describe their identity broadly: race, culture, ethnicity, language, values and customs, activities, food, people they spend time with, music, social history, traditions, events and celebrations, and neighborhood and peer groups. Within these identities are areas of strength and protective factors that can be useful in advocacy as well as relationship building because they humanize clients. Learn these elements of a client's identity over time through inquiry, relationship building, empathy, compassion, and cultural sensitivity. Lastly, practitioners should not let concerns about "using the wrong terms" keep them from talking about these issues with an open mind, ears, and heart.

Committing to Preserving and Promoting All of the Client's Identities

Ask the client what is important to them and then use legal strategies to advocate for those placements, resources, relationships, opportunities, etc. For example, preserving a client's identity may include advocating for additional family time/visitation for special cultural events in their home community. Identify kinship placements or visitation resources that can help maintain the client's connection to their food, music, language, etc. Encourage and help a caretaker enroll the child in activities in their community of origin (cultural activities, religious activities, language classes, camps, etc.). Use a multidisciplinary team approach to connect the client with their community.

Ask the parents, through their attorneys, for information about the child's racial, cultural, ethnic, and linguistic identities with the goal of maintaining them while the child is in foster care. Encourage communication that allows the parent to educate the foster caregiver (directly or indirectly) about the child's food, religious, and cultural customs (hair care, skin care, important dates, etc.). The practitioner should explicitly discuss with the foster caregiver how the foster placement will preserve and promote all of the child's identities.

Finally, children's law offices and practitioners should consider these broad examples of practicing in a culturally humble manner:

- » Creating institutional accountability for respecting every client and family
- » Agree that there is more than one way to do things and that the attorney's way may not be the best way, especially for a family that is not their own
- » Seek knowledge about different cultural practices but understand that the attorney is not the expert in someone else's life, not even a small child

ANTIRACISM

Antiracism is an active process of identifying and opposing racism. It seeks to disrupt racism at the individual, institutional, and structural levels by committing to change the policies, behaviors, and beliefs that stand in the way of achieving racial equity. Being antiracist is not the same as being "not racist." Being "not racist" is a passive state, omits analysis about how one's own thoughts or actions

can lead to racism, and ignores that being “not racist” to date has still resulted in ongoing systemic racial disparities.²

Committing to being an antiracist practitioner within an antiracist children’s law office is a commitment to seeing the client as an individual, not as a stereotype or based on beliefs that one may hold. Practicing in an antiracist way helps identify and reduce the obstacles clients face, improve their experience in the system, reduce disparities in the system, and improve interventions offered to the client. Finally, an antiracist practitioner views the case from a culturally sensitive perspective that identifies and then addresses incidents that occur inside and outside of the courtroom that are biased, demeaning, discriminatory, and/or racist — because such behaviors and acts lead directly to injustice.

Becoming an antiracist practitioner is a lifelong commitment to continue learning, analyzing, and interrupting implicit and explicit bias whenever and wherever it is encountered. Consider four key components in the practitioner’s transformation into an antiracist practitioner:

- » Engaging in self-reflection to understand biases that influence decision making
- » Discussing race and experiences of racism with the client
- » Interrupting bias
- » Committing to raising concerns about racism and racial injustice in cases

Engaging in Self-Reflection to Understand Biases that Influence Decision Making

Reliable research confirms that everyone has implicit biases that impact decision making, and biases must be acknowledged in order to challenge them.³ Lawyers often have to make quick decisions, which requires the mind to rely on shortcuts, pre-written rules, and sometimes stereotypes that speed up thinking, even if inaccurate. Address this by slowing down decision making and explicitly interrogating the reasons behind the decision.

Discussing Race and Experiences of Racism with the Client

Whether the practitioner chooses to explicitly discuss the client’s race and experiences of racism with the client, groups that have been marginalized are acutely aware of how their racial or ethnic identity might influence perceptions, decisions, and outcomes in their case. Instead of allowing this to create a chasm in the relationship, address it. Use open-ended questions and let the client lead the discussion. When the client is speaking, use receptive body language (no arm-crossing, slouching, etc.) and verbal affirmations. Racial macroaggressions, microaggressions, and discrimination are highly personal and traumatic experiences, so work hard to be empathetic and nonjudgmental. Lawyers must listen to and not diagnose a client, deny their experience, or be defensive.

Interrupting Bias

There are many ways to interrupt bias and the practitioner’s own style will dictate which method is used to address issues, but commit to employing a technique to interrupt bias when it arises. Some techniques to begin the conversation include:

- » Seek clarity (“Can you say more about ____?”)
- » Seek common ground (“We may not be able to agree on ____, but we can both agree that ____”)
- » Offer another perspective (“Have you ever considered ____?”)

2 There are many resources to engage in further learning about antiracism. See, e.g., Smithsonian National Museum of African American History and Culture. (n.d.). *Talking About Race: Being Antiracist*. <https://nmaahc.si.edu/learn/talking-about-race/topics/being-antiracist> (last visited October 9, 2023).

3 Consider taking (or re-taking) the Harvard Implicit Association Test (IAT) online to identify biases, available at Project Implicit, <https://implicit.harvard.edu/implicit/takeatest.html>.

- » Speak your truth (“That’s not how I see it. I see it as ____”)
- » Set boundaries (“Please stop saying ____ to me or around me”)
- » Create a placeholder to have the conversation later after further reflection and an opportunity to be more present and focused on the tough conversation (“I want to talk about ____ some more but I want some time to think first”)

Committing to Raising Concerns about Racism and Racial Injustice in Cases

Interrogate every aspect of the child protection system (Is everyone treated this way? How did the client get involved? Do the allegations truly justify removal? Is removal the only way to ensure safety?) and raise those concerns. Data cannot be denied, so utilize data to show systemic racism and inform remedies. Use data to secure additional visitation and culturally humble services, or to challenge placement choice (group home vs. kinship). For example, the practitioner can utilize data on racial disparities in kinship placement to bolster the argument that the court has the opportunity to change that disparate statistic when it comes to the client. Finally, interrogate best-interest and substituted-judgment decision making, as these are subject to implicit bias. Question how those decisions are being made (Is the decision a mirror for the person making the decision? Why is the child’s expressed position being silenced?).

Finally, children’s law offices should encourage practitioners to consider these broad examples of practicing in an antiracist manner:

- » Instead of assigning individual blame for situations, reframe to ask, “what is wrong with institutional and societal policies and practices that led to this situation?”
- » Research data in the jurisdiction, such as whether children of diverse racial and ethnic backgrounds are disproportionately subject to school discipline, and incorporate it into advocacy
- » Be intentional in the relationships created and the news/social media followed as they inform your worldview. Are you seeking diverse views or reinforcing your own?

A children’s law office and its leadership have a responsibility to ensure that supervisors and staff are educated about and committed to practicing in a culturally humble and antiracist manner.

D.3: Client Counseling and Engagement

Samuel Carter, MA, Kristin Mateer, JD, CWLS & Zev Weinberg, MSW, LCSW

SHIFTING ORGANIZATIONAL CULTURE

Engaging with clients is paramount to providing effective legal advocacy within the child protection system. As described by a former client, “the client and attorney relationship is the most important part of the system. If the client feels seen and heard, there is a better chance of some success in that client’s life.” Clients are the experts in their own lives. They know who and what is important to them. Centering the client’s voice, stated interests, or best interests requires organizations to invest in structures that allow attorneys time, emotional bandwidth, and access to culturally responsive supervision.

Refocusing the organizational lens on the client’s perspective while taking into account the legal timelines provided by the courts involves taking stock of the current organizational culture and supporting this shift in perspective if needed. Creating an organizational culture that authentically meets children and youth where they are requires attorneys to investigate how their own biases and personal values show up in their work with clients who are disproportionately Black and Brown. An organization that engages in hard conversations about saviorism, race, and socioeconomic class requires an investment in building trust among staff. Seeking outside support in facilitating this culture can be beneficial.

Practically, to promote client engagement, children’s law offices should:

- » Evenly distribute cases (by numbers and level of difficulty) to ensure continuity of representation for clients already engaging with a large number of providers
- » Implement reasonable caseloads to allow time to build the attorney-client relationship
- » Reduce caseloads for case-carrying supervisors to allow time for quality supervision

TRAINING AND SUPERVISION

Training and supervision are the foundation for building an organizational culture and structure that encourages quality client engagement. The onboarding process for new staff should include shadowing of client interviews and home visits across disciplines as well as review of relevant literature and evidence-based practices that encourage curiosity, self-reflection, and feedback. Children’s law offices should provide training on active listening and developmentally appropriate direct communication skills to support staff in building relationships with clients of all ages. In addition, offices should partner with community-based providers that work with children who have mental health diagnoses, developmental/cognitive impairments, or have been sexually exploited to conduct training for attorneys to learn nuanced strategies for counseling clients in those populations.

Supervision can occur one-to-one between the supervisor and supervisee or during multidisciplinary case reviews or group consultations. Regardless of the format, attorneys should hold each other accountable when reviewing an engagement with a client by asking important questions like:

- » What does the client want?
- » How does the client feel about the situation?
- » How did the attorney come to determine the child’s wishes? What exactly did the client say? Are there other ways the child’s words could be interpreted?
- » Are there any capacity issues that change the analysis?
- » Are the child’s actions consistent with their statements?

Supporting supervisors to provide feedback and identify when the legal strategy is based on the attorney's own biases versus the stated (or best) interest of the client will allow for the client to drive the legal strategy — for example, when using the substituted-judgment models to represent infants and toddlers. When investigating biases in supervision, supervisors must create an environment that is safe and nonjudgmental. Then the following exploration questions can be a good starting point:

- » What automatic feelings or judgments came up about the client, their family, or the caregivers?
- » Does this case, client, family, or caregiver remind the attorney of any personal experience? If so, has this influenced the legal strategy?
- » Is there a pattern in the attorney's decision making based on the client, their family, caregiver circumstances, socioeconomic class, location, gender, sexual orientation, and/or race?

BEST PRACTICES IN CLIENT COUNSELING: CHILDREN SHOULD BE SEEN AND HEARD

Counseling to Understand

Start from the premise that children are resilient and can understand complex situations and speak their own truth. Then seek to understand the client. Rapport and trust are fundamental in creating a safe partnership.

As with any relationship, building effective attorney-client relationships that empower the voice of the client takes time. Meeting children and youth where they are is a key component to building their trust and empowering their voice. Clients may not be ready to discuss traumatic events at a first meeting — that conversation may need to wait for a future meeting. Support staff in being creative in communication efforts with the clients they serve. For example, if a child is being trafficked, exchanging a few texts might be the most communication they can tolerate. If a child has autism, using a “social story” with pictures that depict the court process might be more useful than conversation.

The attorney must always remember that they are counseling children about the children's goals, not the attorney's goals. Providing the client with education about their rights and how the law can be used to obtain their stated goal is fundamental to building a partnership. A former client articulated the importance of this partnership by stating, “upon entering care, I didn't know my rights, nor did I care, but once I was assigned a legal advocate, I was informed of my rights to education, and the attorney fought for my right to graduate from high school and get a college degree.”

Counseling as an Opportunity for Change

Often the clients that the children's law office serves have been living in unsafe and invalidating environments. As a result, clients may have developed behaviors that helped them stay safe or cope in those environments and get validation of their experiences. Once removed from the environment, however, these learned behaviors can result in negative consequences, including arrest, incarceration, and prosecution. In the face of prosecution, attorneys should use a strengths-based approach, engage in client counseling through a harm reduction lens, and reinforce positive behaviors rather than criticize negative ones. A harm reduction framework¹ is based on one fundamental ideology, meeting the client “where they are.” Many other people will tell the client what they have done wrong and expect flawless compliance with court or social services agency directives. Using open-ended questions, affirming statements, and reflective listening will help in reframing the lawyer's relationship to their clients, as a partner invested in their wellbeing. Attorneys' ability to provide guidance about

1 State of California – Health and Human Services Agency Department of Social Services. (2019, July 22). *Harm Reduction Series – Social Worker*. <https://cfpic.org/wp-content/uploads/2020/12/BTB25-3E-02.pdf>.

possible outcomes of particular behaviors without judgment is imperative to developing trust when counseling clients in difficult situations.

CLIENT OUTREACH

There are also opportunities to engage with clients as an organization that go beyond the attorney-client relationship. As an organization, collaborate with other youth-serving agencies and participate in events like resource fairs and career nights that are designed to reach dozens of youth in care at once. Other forms of organizational client outreach include:

- » **Know Your Rights Trainings:** Partner with independent living skills providers, congregate care facilities, and/or social services agencies to hold trainings for clients and youth about the rights to which they are entitled.
- » **Surveys and Focus Groups:** Gathering client feedback and opinions can help improve the office's service delivery. Consider partnering with an organization like Listen4Good² to survey transition-age youth with evidence-based survey tools and feedback loops.
- » **Youth Advisory Boards:** Recruit and pay current and former clients to provide insight about their lived experience and suggestions for how the organization can improve. The board can also serve as a safe place to heal and navigate their future together if youth have all felt seen and heard throughout their representation by the organization and if the importance of their input is reinforced and acted upon by the organization's leadership.
- » **Programs for Former Clients:** Often, programs retroactively benefiting former clients are developed (like a guaranteed income program for youth who previously experienced foster care), and children's law offices should assist in identifying and informing former clients about new benefits. Always solicit multiple ways to reach clients (cell phone numbers, email addresses, contact information for other close connections) even as their cases close.

2 Listen 4 Good helps organizations "harness the power of direct feedback and make client perspectives more integral to [their] work." Learn more at www.listen4good.org.

D.4: Multidisciplinary Practice

Kristin Flory, JD & Tom Welshonce, JD

BENEFITS OF MULTIDISCIPLINARY REPRESENTATION

Attorneys for children in child protection cases are more than just attorneys. The most effective attorneys for children understand that no matter their role in the case, they must be able to assess a child's full range of needs, including their physical, psychological, developmental, and educational needs. One option for children's law offices to be able to assess these needs is to adopt a multidisciplinary legal representation model. Using a multidisciplinary model increases the likelihood that children receive the highest quality representation both inside and outside of the courtroom. Multidisciplinary practice brings together professionals from different disciplines and allows them to collaborate and share expertise to address the complex psychosocial needs of children and families involved in the child protection system. Having a holistic approach can improve the quality of services provided, increase the efficiency and effectiveness of interventions, and better support positive outcomes for children and families. Multidisciplinary practice is also able to help identify and address the underlying issues that may contribute to child maltreatment such as poverty, substance use and mental health disorders, and intimate partner violence.¹

The multidisciplinary legal representation model includes many benefits. This model:

- » Provides enhanced legal representation to children by ensuring an increased awareness, through the social service lens, of the fact that children are often best served through advocacy for the needs of the entire family
- » Allows a coordinated response by team members to address children's legal interests and their non-legal issues and needs
- » Offers the ability to conduct a more thorough investigation and obtain more information about the child, the family, and reasons for involvement in the child welfare system
- » Increases collaboration among individuals with unique skillsets and experiences to determine the most appropriate services and recommendations for children and families
- » Amplifies children's voices both inside and outside the courtroom through more active participation in planning meetings and through collateral contact with providers
- » Increases client engagement and rapport building, which leads to better client dialogue and more effective legal representation
- » Offers children and youth more than one person to connect with, which is important in a field with high turnover rates
- » Provides an internal support system in a profession that experiences significant vicarious trauma and subsequent burnout

¹ See Pott, R. (2016). *The Flint MDT Study: A Description and Evaluation of a Multidisciplinary Team Representing Children in Child Welfare*, Chapter 12 in Duquette, D.N., Orlebeke, B., Zinn, A., Pott, R., Skyles, A., & Zhou, X. (2016). *CHILDREN'S JUSTICE: How to Improve Legal Representation of Children in the Child Welfare System*, ABA Center for Children and the Law; Duquette, Donald N. (2022, February 8). *How to Improve Legal Representation of Children in America's Child Welfare System*. U of Michigan Public Law Research Paper No. 22-002, U of Michigan Law & Econ Research Paper No. 22-002. <https://ssrn.com/abstract=4030020>; U.S. Department of Health and Human Services, Administration of Children and Families. (2017, January 17). *High Quality Legal Representation for All Parties in Child Welfare Proceedings*, Log No: ACYF-CB-IM-17-02. <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>.

TYPES OF MULTIDISCIPLINARY TEAMS²

There is no “one-size-fits-all” multidisciplinary legal representation model. The benefits of the model can be achieved using a variety of different approaches. A children’s law office might consider hiring social workers or other social service professionals who have expertise in areas including child development, education, or other related fields. An office may include peer advocates with lived experience to engage with children and youth and help inform the office about possible approaches to cases. Another possibility is to consult with local medical and mental health professionals about individual cases and discuss opportunities for treatment. Some offices may also consider the use of investigators to help gather relevant information and evidence.

QUALITIES OF EFFECTIVE TEAM MEMBERS

As a children’s law office considers how it wants to staff a multidisciplinary model, it should consider what qualities, experiences, and educational backgrounds are most important to the office. An effective multidisciplinary model requires communication among team members and a willingness or even a demonstrated history of collaboration. Prior experience working with children and families can prove to be very helpful, as is a willingness to accommodate children’s and families’ schedules for purposes of meetings and home visits. If staff will include social workers or other clinicians, consideration should be given to whether the office will require a post-graduate degree or license.

ROLES OF TEAM MEMBERS

Moreover, a children’s law office should define the role of each team member from the outset and clearly set expectations for potential new legal and non-legal professional staff. Law offices should consider:

- » Do the non-legal professionals share cases with attorneys, or are they called in for specific tasks on specific cases?
- » If the team members share a case, are their responsibilities pre-set from the outset (e.g., the social worker handles all out-of-court fieldwork and the attorney goes to court), or do responsibilities vary by case?
- » Who makes the final decision about the team’s approach and advocacy? Is the attorney in charge, or does the model require consensus among the team?
- » How do teams resolve internal conflicts about approach and advocacy?

There is not necessarily a right or wrong answer to any of these questions because each approach can offer certain advantages and disadvantages. For example, if team members share cases, the team will be able divide tasks for the case and accomplish more than a single person could do, which will likely lead to a more complete understanding of the case and more effective advocacy for the client. But a shared caseload also requires a higher ratio of non-legal professionals.

ALTERNATIVES AND POTENTIAL FIRST STEPS

If the children’s law office is not in a position to hire additional team members, there are other ways to effectuate a multidisciplinary model. A partnership with a social work graduate school program or medical program allows attorneys to partner with graduate students for case collaboration and gives those students necessary hours towards internships and credit requirements. Another option is to

² See *also*, Chapters II.B.6: Multidisciplinary Team Members and II.D.5: Peer Advocate Programs.

build a network of pro bono professionals (e.g., social workers, psychologists, medical professionals, educators) who are willing to consult/educate on specific cases or issues. Having external professionals willing to work alongside attorneys can help provide a more comprehensive and holistic approach to representing children and families in the child welfare system. An additional avenue may be to join and/or convene multidisciplinary meetings to promote case discussions with many individuals from multiple offices (casework staff, medical professionals, law enforcement, behavioral health, etc.).

D.5: Peer Advocate Programs

Lidia Bernal, BA, Betsy Kramer, JD & Cristal Ramirez, MS

INTRODUCTION

Peer advocates in children's law offices are young professionals who have lived experience navigating the child protection system and work closely with youth currently in care and their attorneys. They provide youth clients the opportunity to work with someone who knows from first-hand experience what being in the child protection system is like. A peer advocate program can take many forms. Peer advocates may work more closely with social workers, ensuring the client is staying aligned with their case plan, or peer advocates may primarily work on the legal side of the case, working with a client's attorney and focusing on court. This chapter will help children's law offices consider why and how to integrate peer advocates into their work.

IMPORTANCE OF INTEGRATING PEER ADVOCATES

Peer advocates play an important role on a multidisciplinary legal team to help engage youth clients and connect youth to needed services and supports, with the goal of improving outcomes in their cases and their lives. Peer advocates also pave the way for more people with lived experience in foster care to inform and shape children's legal representation offices and systems. When well supported by an organization, its leadership, and its staff, peer advocates promote holistic client-centered advocacy.¹ Including peer advocates enhances multidisciplinary representation, which is a best practice to enhance legal representation for children and youth, especially regarding client communication.² Use of peer advocates is also an *authentic* and *intentional* approach to youth engagement — *authentic* in that it is genuine and emotionally appropriate, purposeful, and responsible; and *intentional* in that it is thoughtful and deliberate, by checking for alignment in values and beliefs in working with others.

BENEFITS OF INTEGRATING PEER ADVOCATES

People with lived experience naturally bring a different lens to the work than professionals without lived experience; they may be able to see something others may not and have invaluable insights that can greatly support youth clients. Youth who are navigating the child protection system are likely to relate to peer advocates and feel understood in ways they may not with other professionals on their team. Additional benefits include:

- » Peer advocates can inform the development of children's legal representation offices and systems from the perspective of a lived experience expert
- » Youth clients and peer advocates may be closer in age, which can aid a peer advocate in serving as a "translator" between the youth and legal team
- » A peer advocate can help the youth's team understand certain behaviors or choices and remind other members of the team what the youth might be going through
- » Peer advocates may be able to connect youth to services and supports they themselves have had experience with

1 Green, Allison, Pisani-Jacques, Kristen and Ramirez, Cristal. (2022). "Lawyers for Children." *Child Welfare Law and Practice: Representing Children, Parents, and Agencies in Neglect, Abuse, and Dependency Cases, 4th Edition*. Chapter 31. National Association of Counsel for Children. Available at <https://naccchildlaw.org/product/the-red-book/>.

2 National Association of Counsel for Children. (2021). *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*. <https://naccchildlaw.org/standards-of-practice/>.

- » Youth clients and peer advocates working together can increase communication and trust between the youth and other law office professionals

CONSIDERATIONS IN HIRING PEER ADVOCATES

The criteria for hiring peer advocates should reflect the role that they will play in the children's law office and the population with which they will work. In general, peer advocates should be young professionals who have had time away from foster care in order to process their experience and develop both personally and professionally. Management should be open to hiring peer advocates with a variety of educational, personal, and professional experiences, considering the many ways those experiences can contribute to the role. To that end, considerations in hiring should include:

- » Diversity of identity (e.g., race, ethnicity, gender identity, and sexual orientation)
- » Varied experiences in the child protection system (e.g., different types of placements, permanency outcomes, and cross-systems involvement)
- » Personal and professional connections to the community served by the office
- » Professional and academic experience in the fields of law (e.g., general paralegal or criminal justice), social sciences (including psychology, sociology, social work, case management, and mentoring), education, and any other areas that might prepare the candidate to work with youth who are involved in the child protection system

TRAINING FOR PEER ADVOCATES

Peer advocates should receive much of the same training as other staff members. They must understand the court process, rights and responsibilities of youth in foster care, duty of confidentiality, fundamentals of adolescent brain science, how to use a strengths-based and trauma-informed approach to working with youth, and motivational interviewing. Training that is specific to the peer advocate will depend upon the role(s) that the peer advocate will play in the office, but should include, at a minimum, how to:

- » Allow their experience to inform their work without controlling it
- » Ensure that working with youth is not triggering for the peer advocate
- » Maintain appropriate professional boundaries with clients who are close in age and have had similar life experiences

JOB RESPONSIBILITIES OF PEER ADVOCATES

The role of the peer advocate can be tailored to serve the needs of the law office and clients. Their responsibilities could include any or all of the following:

- » Providing support and assistance to individual clients, such as:
 - Attending court hearings and case conferences with youth
 - Acting as a member of the youth's permanency team
 - Accompanying youth to government offices and agencies to obtain vital documents, apply for benefits, and attend intake appointments for services
 - Providing guidance for job-seeking strategies and interview preparation
 - Supporting youth in identifying and applying for educational opportunities and financial aid

- » Bringing groups of clients together to share information and to coordinate advocacy efforts around systemic concerns, such as:
 - Conducting information sessions for youth regarding particular topics of interest (e.g., educational opportunities and employment strategies)
 - Convening groups of similarly situated youth (e.g., clients who are LGBTQIA+, expectant and parenting youth, and youth enrolled in higher education) to share information and experiences with each other
 - Coordinating youth voices to effectuate policy and legislative change and helping youth share their stories with policymakers and legislators by organizing letter-writing campaigns and lobby days
- » Promoting the use of best practices and well-rounded approaches to working with youth, such as:
 - Providing feedback to staff regarding the ways in which their words and actions impact young people
 - Ensuring that staff view each case through the eyes of youth
- » Working with community partners to help ensure that clients are connected to resources as they transition out of care, such as:
 - Maintaining up-to-date information regarding the processes for applying for public benefits
 - Establishing connections to medical, mental health, recreation, and other community resources that serve young adults
 - Introducing youth to community-based organizations that have programming and supports for young adults

SUPERVISION OF PEER ADVOCATES

Like all staff members, peer advocates must have strong supervisory support. A social worker may provide direct supervision, but there should also be a designated attorney to provide support and assistance with respect to legal matters. Regular meetings between the peer advocate and their supervisor should address the peer advocate's:

- » Job responsibilities and expectations
- » Work since the last supervisory review
- » Questions regarding how to handle particular client matters
- » Challenges (both those identified by the supervisor and those identified by the peer advocate)
- » Successes and how to leverage those outcomes
- » Thoughts about expanding the role and a plan for implementation

CONCLUSION

Professionals with lived experience in the child protection system can be valuable members of the children's law office team. People with lived experience bring an important perspective to the staff and to the clients they serve, enhancing the experience for both. The required qualifications of a peer advocate may be dictated by the role they are to play, but managers must consider that a variety of personal, professional, and educational experiences may enhance the role. No matter their background, peer advocates must receive strong support and supervision from children's law office staff.

D.6: Community Partnerships

Jody Leibman Green, JD & Betsy Kramer, JD

ESTABLISHING AND MAINTAINING COMMUNITY PARTNERSHIPS TO SERVE AND SUPPORT CLIENTS

Effective advocacy on behalf of child clients often involves identifying resources that can be provided to ensure that “reasonable efforts” are made to achieve the permanency goal and that clients are placed in the least restrictive placement consistent with their needs. Presenting the child protection agency and the court with a package of available services may help children’s lawyers achieve their client’s goals, such as remaining or returning home, placement in a particular foster care setting, or discharge from placement to a relative or independent living. For these reasons, the children’s law office must maintain up-to-date information regarding the resources that are available in the community and how to access them. Those resources should include:

- » Physical health services
- » Mental health services
- » Tutoring programs
- » Alternative educational programs
- » Daycare and afterschool programs
- » Recreational and summer camp programs
- » Services for children, youth, and parents with developmental disabilities
- » Affordable housing programs
- » Legal service providers in areas including benefits, immigration, disability, housing, etc.
- » Drop-in centers for older youth

CREATE A DATABASE OF AVAILABLE RESOURCES

Each law office should maintain a list of resources that are available to serve its clients, organized by category. For each resource on the list, the following information should be included:

- » Agency name
- » Description of the services provided
- » Population served
- » Process for making referrals
- » Cost
- » Intake coordinator’s name and contact information

Children’s law offices may not have to start from scratch to create this list. A local United Way office, legal services office, or major social service provider may have already created a user-friendly guide to services to build from. Members of the office’s staff should contribute to the list based on personal or professional experiences they have had working with service providers.

PROVIDE ALL LAW OFFICE STAFF WITH ACCESS TO THE RESOURCE LIST

The list that is created will be a valuable resource to staff only if they are able to access the list to obtain information, as necessary. All staff members should be able to add new resources to and edit the list to keep the information accurate and up to date as they learn new information. The entire list should be reviewed for accuracy and updated on an annual basis (as an intern project, for example).

ESTABLISH COMMUNITY PARTNERSHIPS

In addition to maintaining a list of available resources, children's law offices should establish personal relationships with the service providers on the list. Those relationships may be crucial to obtaining information regarding the availability of a particular service, making an effective referral for a client, learning about new services that may become available, obtaining timely information regarding changes in service provision, and gathering information regarding a client who is being served. Offices can establish those partnerships by:

- » **Joining workgroups:** Service providers often participate in workgroups and maintain email groups/listservs to share information regarding issues in their field (education, mental health, etc.). Staff members should join these groups in order to obtain up-to-date information and also to establish connections with service providers who may help to quickly connect clients to needed services.
- » **Cultivating connections through case contacts:** Each time a connection is made with a service provider for a particular client, remember that the provider might be appropriate for other clients as well. Gather information regarding the scope of services and the best way to access those services. Having a personal connection with the intake team can be invaluable when there is a need to quickly obtain information regarding the availability of services for a particular client.
- » **Inviting service providers to present trainings for staff:** Service providers might present a training regarding the services that they provide or a substantive issue that impacts clients.
- » **Conducting trainings for service providers:** Service providers who are not familiar with child protection law — including the rights or legal processes that might impact children they serve — may welcome children's law office staff to conduct trainings to educate their staff. They may also welcome an offer to serve as a resource if child protection-related questions arise.

HOW TO USE THE PARTNERSHIPS TO BENEFIT CLIENTS

The connections forged with organizations and service providers in the community can benefit children's law office clients in a multitude of ways. These may include:

- » Creating an easy pathway to connecting clients to needed services
- » Cultivating resources and relationships with partners who can help staff understand how particular issues may impact clients and their families
- » Identifying potential expert witnesses
- » Collaborating on opportunities to expand needed services by sharing information regarding clients whose needs are not being met
- » Joining forces to advocate for legislative and policy changes that may impact the office's clients

CONCLUSION

Establishing community partnerships is critical. Most importantly, those relationships can help connect clients to the services and supports that will help them achieve their goals as quickly and safely as possible. Those partnerships can also help the law office advocate on behalf of the clients they serve — both in individual cases and more broadly by collaborating to improve the systems that impact them.

D.7: Cross-Systems Advocacy and Partnerships

Rhea Yo, JD

INTRODUCTION

Child- and youth-centered, high-quality legal services require cross-systems advocacy and partnerships. Young people involved in the child protection legal system, particularly young people of diverse racial and ethnic backgrounds and children and youth identifying as LGBTQIA+, touch multiple legal systems throughout their lives and simultaneously — namely, civil legal aid, immigration, juvenile/criminal legal, and education. Young people’s communities and families also navigate these systems and affect the young person’s interests.

Children’s law offices are uniquely positioned to support their clients in navigating these systems. Attorneys, unlike most other providers and stakeholders, are directed by the child client and must maintain confidentiality across systems. Many times, the child’s attorney is the only professional adult in the child’s life who is not a mandated reporter. Because the legal outcomes in these systems impact each other, zealous legal advocacy in child protection cases requires knowledge of these outcomes and how they interact. Children’s law offices should ensure that attorneys are knowledgeable of both the legal and interdisciplinary components of these systems, including the key partners and the roles they play — rarely does a young person only have legal needs. The attorney can play the role of facilitator and coordinator across systems. Building relationships with and learning from interdisciplinary partners, including the child client’s community and family networks, is a key component of cross-systems advocacy and incorporating their expertise across systems.

HOW TO INCORPORATE CROSS-SYSTEMS LEGAL ADVOCACY IN THE CHILDREN’S LAW OFFICE

Cross-systems advocacy should be an explicit role of the child’s attorney as part of the children’s law office’s standards of practice. Best practice is cross-systems legal representation within the same children’s law office if possible. When a young person is a party in a legal proceeding, the children’s law office is best positioned to represent them, ideally through specialized units or programs. Depending on the experience and expertise of existing staff, one attorney may be able to represent the client in multiple legal systems, or multiple attorneys may have to represent the client across systems. Children’s law offices should ensure staff receive training on common ancillary issues that arise to build up cross-systems experience and expertise. Providing cross-systems legal services is also an opportunity for the children’s law office to access diverse funding. For example, with specialized units, children’s law offices can seek public funding (at the city, county, state, and federal levels) focused on housing and eviction prevention, survivors of gender-based violence, family law, immigration, etc.

If the children’s law office cannot represent the client in a different legal system outside of child protection, they should intentionally build and formalize partnerships with other legal and interdisciplinary providers to coordinate strategy and advocacy. Informally, such partnerships can include shared release of information forms, co-designing programs such as a cross-referral process, joint legal clinics, educational trainings, or shared intake hours in the community. The organizations can engage more formally across systems through Memoranda of Understanding (MOU) and shared grants that provide funding for cross-systems engagement.

SPECIFIC GUIDANCE WITHIN EACH SYSTEM

Civil Legal Aid — Legal Advocacy

Young people in and exiting the child protection legal system may encounter multiple civil legal aid needs. If a children's law office wants to incorporate a prevention program, knowledge of civil legal aid issues is also imperative. Many of these civil legal needs are tied to accessing housing and public benefits or addressing safety concerns.

- » Pregnant and parenting clients need support obtaining custody orders, navigating child protection investigations, and accessing benefits such as food assistance and Temporary Assistance for Needy Families
- » Young people may seek a protection order or need representation as the respondent — whether the underlying issue is domestic violence, sexual assault, or harassment
- » The child client may want to file a minor guardianship or emancipation to leave foster care
- » Youth in extended foster care and youth exiting systems may face an eviction, identity theft, or want to change their name and gender marker. Youth exiting foster care also receive federal and state housing support services that may require ongoing advocacy, including landlord-tenant negotiations
- » Young people with disabilities may need help navigating housing options, health systems, and public benefits to ensure their rights are protected
- » Young people face multiple types of debt and need assistance in understanding their right to reduce or remove the debt, including consumer debt, traffic tickets and fines, medical debt, educational debt, and legal financial obligations

Children's law offices should represent the youth, or ensure they have competent legal representation, in navigating all these legal issues, including petitioning, responding, and appearing on the client's behalf in court proceedings. For access to justice outside of court systems, such as public benefits and access to health care, the attorney can work on the client's behalf through demand letters, negotiations, and administrative processes. If in-house expertise is not possible or available, the children's law office should formalize partnerships with other legal aid offices that can represent their clients in housing, benefits, and family law cases.

Immigration — Legal Advocacy

Children's law offices should intentionally recruit and hire multilingual attorneys and staff who can speak the language of the clients and families they serve and help translate legal documents and educational materials into multiple languages. Multilingual fluency should include additional salary compensation.

Undocumented children and youth in legal systems, particularly the child protection legal system, may be eligible for immigration relief through Special Immigrant Juvenile Status (SIJS). The children's law office should be responsible for ensuring SIJS-eligible youth obtain the predicate orders in state court. To obtain immigration relief and adjustment of status with U.S. Customs and Immigration Services (USCIS), the children's law office must partner with immigration attorneys or create an in-house immigration practice for SIJS petitions. Immigration and children's attorneys can create safety plans in the case of deportation of family members and conduct best practice trainings for schools and other communities that support undocumented youth and families (including topics such as the importance of confidentiality and limiting unnecessary interactions with law enforcement).

Juvenile/Criminal Legal System — Legal Advocacy

When a client is accused of a crime and involved in the criminal or juvenile legal system as a young adult or minor, the child's attorney in the child protection legal system must be closely involved. When possible, a children's law office may include a juvenile defense legal practice. The child's lawyer in the child protection case should be in close communication with the attorney in the juvenile or criminal legal case. The attorneys should share information to support diversion and mitigation efforts (while keeping in mind confidentiality requirements and the different purposes of each system) and address service needs through the child protection system instead of criminal court. The child's attorney should be present at juvenile and criminal proceedings as the expert in the client's child protection case and related needs and resources.

Sometimes, the child's attorney can support the client by helping to explain and navigate the complex and hurried criminal system. The child's attorney can be a bridge between providers in the child protection system and criminal system. Particularly in juvenile criminal court, demonstrative support from a young person's personal community such as family members, mentors, coaches, and teachers can immensely help the young person's case. Each of these interdisciplinary partners can demonstrate to the criminal court that the needs of the youth are best met in the community and outside the criminal legal system.

The child's attorney can also address the legal needs that arise post-conviction and after release from incarceration. These re-entry issues can include reducing or removing legal financial obligations, supporting the client in meeting probation requirements, and sealing and/or expunging criminal records.

Education — Legal Advocacy

When the student holds the educational legal right, the children's law office should represent the youth. This can include disciplinary proceedings (suspensions/expulsions), truancy proceedings, and the rights of students in homelessness and/or child protection systems. Students in foster care and/or experiencing homelessness have federal protections related to school choice, enrollment requirements, school-based services, and transportation. Children's attorneys should advocate for their clients in schools to ensure these rights are upheld. Attorneys should pay particular attention and seek to interrupt practices that facilitate the school-to-prison pipeline, such as using law enforcement or school-resource officers for discipline, going to court for truancy issues, schools encouraging families to file anti-harassment protection orders against students, and inadequately providing behavioral health support in the schools.

Children's attorneys should also advocate for students with disabilities, particularly if they are eligible for Individualized Education Plans (IEPs) or 504 plans. If the client wants the support, such advocacy can include helping to identify the need for special education, ensuring the student is appropriately assessed, and attending all school meetings related to their special education needs.

In most cases, educational rights, particularly with regard to special education, are held by the parent or another caregiver. Some law offices may create an in-house special education advocacy program with conflict waivers among parties that allow attorneys to represent caregivers for complex and contested special education advocacy. Close communication with the educational rights holder, whether the student or caregiver, will facilitate addressing any behavior and disciplinary concerns further upstream before potential suspensions, expulsions, and manifestation determination meetings. Sometimes the child's attorney will need to work with their client to identify a trusted educational rights holder for the child protection legal case if the parent is unable or unwilling to fulfill that role.

Interdisciplinary Advocacy

In tandem with legal advocacy or in lieu of litigation, the child's attorney can advocate for a client's civil, immigration, criminal, and education legal needs by building relationships with interdisciplinary partners such as:

- » Housing and homelessness system partners including youth shelters, transitional living programs, rapid re-housing programs, public housing authorities, pregnant and parenting housing programs, and tenants' unions
- » Health systems, particularly mental and behavioral health providers including evidence-based programs like wraparound intensive services, trauma-focused therapeutic interventions, culturally responsive service providers, and school-based services
- » Community-based organizations that provide flexible financial assistance such as rental assistance for eviction prevention and that are experts in local and state resources available to undocumented individuals, including state public benefits, mutual aid, and employment opportunities
- » Probation officers, mitigation specialists, and substance use and behavioral support providers that can help with coordination of services and supporting diversion and mitigation efforts for youth involved in the criminal legal system
- » Community organizations that support the client's religious, ethnic, cultural, or gender identity, including LGBTQIA+ advocacy groups that have expertise in safe and affirming housing options and gender-affirming health care, and organizations that provide or connect non-English-speaking clients to translation/interpretation services, family support services, and other case management services in their language
- » Survivors' advocacy groups such as providers who support commercially and sexually exploited children (CSEC) and victims of gender-based violence
- » Education supports, providers, and partners, including McKinney-Vento Homeless Assistance Act liaisons, foster care education liaisons, and multidisciplinary special education assessment providers

Interdisciplinary partnerships can extend beyond the individual client's case. For example, the children's law office and partner organizations can provide joint educational presentations or conduct shared clinics at community events.

D.8: Quality Review and Outcome Measures

Tara Grigg Green, JD, MPP

INTRODUCTION

Children’s law offices must have data to get an accurate, unbiased picture of progress and success within the organization. Ideally, the organization will use the data to make changes in processes and service delivery and eliminate problems before they become entrenched. When evaluating a program’s success and outcomes, organizations should start at the end. What change is the organization trying to make in the world? How will it know when the goals are achieved? So what?

For example, children’s law offices often focus on providing high-quality legal representation. That, in itself, has two parts: 1) How does the organization know their representation is high-quality and that they are doing a “good job”? and 2) What happens — or improves — because they provided high-quality legal representation? In answering the first question — whether the office achieved its goal — “quality legal representation” must be broken into elements that are measurable, like establishing an attorney-client relationship, supporting the attorney-client relationship, and offering legal counsel and advice to the client.¹ In other words, measuring whether an office is providing high-quality legal representation involves tracking whether certain markers of high-quality legal representation are occurring. However, high-quality legal representation is not just the end; instead, offices need to determine what outcomes they are creating or striving towards. Examples include that clients feel like their voices are heard, children spend less time in foster care, children are placed with family members if they cannot be reunified, or all ancillary legal issues have been addressed.

DATA QUALITY AND INFORMATION MANAGEMENT

The information a law office has is only as good as the quality of the data it collects. This decidedly unglamorous piece of running a law office is easy to ignore, but it is critical to its infrastructure.

Case Management System

As soon as possible, start collecting data. The sooner the data is in an information management system, the better, because that ensures the data is kept in a uniform way year after year in order to accurately track goals and outcomes. The data-tracking method or database does not have to be sophisticated but must be able to run basic analysis. Comprehensive case management systems can cost thousands of dollars to customize and develop, and often take a year or more to fully build out, so early in the life of the organization a more basic form of data collection may be necessary (such as Excel or Google spreadsheets). Basic case management systems developed for solo practitioners or small law offices (such as MyCase or Clio) might also work, but they are rarely set up to provide reports of the type of data analysis needed for a children’s law office.

As soon as possible, it is worth the investment of time and money to develop the right case management system for the office. Any data collected before the final case management system is created will have to be transferred to the new system — either through manual data entry, which is onerous and time consuming, or through data migration, which is expensive and highly detailed. Either way, the less data that needs to be transferred, the easier the process will be.

¹ National Association of Counsel for Children. (2021). *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*. <https://naccchildlaw.org/standards-of-practice/>.

Measures

Children's law offices can obtain reliable information on progress, outcomes, and performance when they track the same measures in the same way over time. Law offices must carefully plan which measures and data points to collect in their information management system. If the measures are always changing, it is difficult to truly track how things are going internally and with service delivery.

There are many resources that provide guidance on what measures of success and indicators of high-quality legal representation are important for children's law offices, including the *NACC Recommendations for Legal Representation of Children and Youth*,² the Family Justice Initiative Evaluation Tools,³ and the ABA Center on Children and the Law's information on high-quality legal representation.⁴ Include any state statutory requirements or standards of representation. For example, in Texas, an attorney for the child must meet with the child (or the child's caregiver if the child is under four years old) before each court hearing.⁵ Law offices should also track information required by funders and stakeholders, such as how many clients were served, how many cases were opened and closed in the past year, and the types of cases. If possible, track the time staff spend on the case and what activities went into the case (e.g., client meetings, mediation, court hearings, motions filed). This information is helpful in caseload capacity analysis and also allows a researcher to use other types of sophisticated statistical analysis to determine what staff work goes into a "successful case."

Disparity data is also very important to collect. This data goes beyond simply the racial and ethnic identity of the client and can include other information like the zip code where the case originated and household income. Make sure to also track how the office is serving other marginalized groups, such as LGBTQIA+ youth and individuals with disabilities. These groups have often experienced disparate treatment linked to adverse outcomes,⁶ so law offices must ensure they do not inadvertently contribute to the disparate treatment.

These measures and data points tie back to the information management system because the organization has to determine how to collect the data. For example, multi-select or multiple choice options can be used for race: "Select all race categories for the client." A binary field (yes/no) would be used for questions, like "Is this client a dual status youth?" Open-ended or short answers can be used to gather information on the underlying allegations of abuse or neglect. As much as possible, use multi-select, multiple choice, or binary questions. Gathering information in this way makes it much easier to analyze because the information is clearly categorized from the moment the data is entered. Open-ended questions have to be hand-coded, categorized, and then analyzed, which is very onerous.

Data Entry

Data entry and keeping the data "clean" is potentially the most difficult part. If the data is not correct and current, or if data is missing, the results are completely unreliable. Children's law office leaders have an important decision to make. On the one hand, the organization can collect enormous amounts of data with a lot of detail, but it will be hard to get staff to keep it current, and it will consume a lot of staff time. On the other hand, the focus can be on the most critical pieces of data, which takes less time to keep updated so it is more likely to be correct, but then some information will not be collected.

² *Id.*

³ Family Justice Initiative Evaluation Tools, <https://familyjusticeinitiative.org/data/evaluation-tools/> (last visited October 9, 2023).

⁴ ABA Center on Children and the Law. (2018, September). *Legal Representation in Child Welfare Proceedings*. https://www.americanbar.org/groups/public_interest/child_law/resources/legal-representation-in-child-welfare-proceedings-sources/.

⁵ Tex. Fam. Code § 107.004(d)(1) (2022).

⁶ See Child Welfare Information Gateway, *Disproportionality Data*, <https://www.childwelfare.gov/topics/systemwide/cultural/disproportionality/data/>.

Keeping the information up to date takes a lot of time, and most staff prefer to focus their time on “doing the work” rather than maintaining their case information. Although the clients are the priority, law offices must build data maintenance into the staff’s time and help staff to see that data entry is a part of high-quality legal representation. One way to encourage staff is to remind them that the case information belongs to the client, so keeping it in their heads is doing a disservice to the clients. Sometimes being upfront about the information funders want to know can also be useful — staff tend to understand when money is on the line and how bringing more money in can improve their workplace. Get feedback from staff on what would be most helpful to them to keep client data up to date. They likely need deadlines, reminders, and protected time to keep everything updated. A quarterly “admin week” or monthly “admin day” might also be a helpful solution to allow staff to completely focus on updating case information without fielding case calls and emails.

CASE OUTCOMES

So what? What change is the children’s law office making? Case outcomes are measurable changes over time, like reducing the time children spend in care, increasing family reunification, or a higher proportion of children placed in the least restrictive setting. Think about what outcomes are tracked locally, regionally, or statewide, and try to track them similarly for the organization, to measure how the organization’s outcomes compare against the jurisdiction generally. For example, X% of children in the state are placed in kinship placements, but Y% of children that the children’s law office represents are placed in kinship placements.

Usually, outcomes are collected at the end of the case. Some individual case outcomes could include:

- » The child was placed with family instead of in a foster home during the case
- » All siblings were placed together
- » A child with special education needs had all necessary services provided
- » A child with mental health concerns was stable without any psychiatric hospitalizations for more than six months
- » The child had a positive permanency outcome specific to their case

Understanding outcomes can be tricky and complicated. Without sophisticated statistical analysis, it will be difficult to say that high-quality legal representation *caused* an outcome. This is especially true because outside factors, like the caseworker assigned, cannot be controlled but have an influence on case outcomes. Also, not all outcomes are relevant to each case, so not all of the outcomes available should be used to evaluate a specific case. Whether an outcome is “good” is case-specific depending on the facts of the case, so this determination should be made by the staff that worked the case.

It is the aggregate of the outcomes for the children’s law office that can show how high-quality representation makes a difference instead of looking at outcomes on a case-by-case basis. If all of the children served by the law office have a positive permanency outcome specific to their case, but only 50% of the total children in that jurisdiction have a positive permanency outcome, clearly high-quality representation is leading to better permanency outcomes for children.

Think about the great things staff are achieving after months of hard work on a case and the value of the team that can be communicated to others. What changes is the law office trying to make in the greater child protection system? The outcomes will help to show if the law office is moving the system in a positive direction.

FEEDBACK FROM CLIENTS AND STAKEHOLDERS

Client satisfaction, regardless of case outcomes, is a cornerstone of providing high-quality legal services. Once a case is closed, try to get feedback from clients. Waiting until case closure helps ensure that the client is not concerned that their feedback might affect the quality of representation, and they may be more likely to be honest. It can be very difficult to get client feedback, especially because the population served by a children's law office can be transitory, so provide an opportunity to give feedback in different ways: text or email them a link to an online form, mail them a form with a stamped envelope to make it easier to return, and/or have a staff member who was not part of their case call them.

Qualitative stakeholder feedback from judges, other attorneys, and child protection workers is also very helpful but can be challenging to get. The content of the feedback can include whether the law office's attorneys provide zealous advocacy, whether the multidisciplinary team provides valuable support, and if the law office provides higher-quality representation than other attorneys in that jurisdiction who are not part of the law office. The feedback is most easily collected through an electronic survey but can also be done through interviews or focus groups. Because the survey is not directly relevant to stakeholders or their work, responses might only come from stakeholders who are either very happy or very unhappy with the office's services. A survey conducted every three to five years might elicit more participation because the stakeholders do not get burned out or annoyed by filling out a survey every year, and changes in the law office are more noticeable over that period of time.

D.9: Caseloads

Frank Cervone, JD

INTRODUCTION

The children’s law office must analyze and control both the size and composition of its caseload. “Workload” — measured in number of cases, substantive areas, issues pursued, and distribution among collateral staff colleagues — all contribute to the outcome of a case, as does the quality of an individual’s practice and the inherent difficulty presented by the client need or matter. In a field in which success is hard to measure, caseload size can and often does bear on the quality of representation. The link between caseload and quality has been studied and recognized for decades.¹ A key component of an attorney’s ability to deliver high-quality representation for every client will be the size and complexity of the practitioner’s caseload.

CASELOAD CONSIDERATIONS

Historically, children’s law offices have assigned hundreds of clients to a single staff attorney or have managed huge lists of clients with rotations of assigned staff “covering” a caseload or a court docket. Now, standards of practice and expectations to control caseloads are common in many jurisdictions and in individual programs. Over more than four decades of children’s law practice, caseload expectations and caps have moved downward, recognizing the complexity of the work and the time needed to complete key tasks and deliver competent representation. Models have been developed that both monitor the volume of assigned cases and analyze caseload expectations. A core responsibility of those managing caseloads is to ensure that the volume of assigned cases does not impede the standards of practice to which the children’s law office aspires.

The office’s model of case assignment and staffing will define the individual practitioner’s caseload numerically. Accordingly, the organization should consider:

- » What is a full-time attorney caseload and how will the office reduce a caseload for part-time work?
- » What is the role of subject-matter specialists, paralegals, administrative staff, and staff social workers, and how do these services impact attorney caseload and the office’s overall quality of practice?
- » Are cases balanced to regulate and distribute workload (e.g., tracking assignment of time-intensive new cases and disposing closed cases that might otherwise create a backlog in assignments)?
- » Are assignments to new staff increased gradually to allow learning to happen?
- » Are personal boundaries, trauma exposure, work challenges, and work-life balance respected?

Likewise, the office’s approach to the scope of representation has a large effect on caseload, with time demands that far exceed traditional bounds of dependency court practice. Holistic, multidisciplinary, or “whole-child” representation has become best practice in many communities, so that children’s lawyers and their office colleagues are addressing education, physical, dental, and behavioral health

¹ For example, an important 2008 California study noted that the “link between caseload reduction, compensation standardization, and quantifiable, measurable outcome improvements for children and families” was established through foundational baseline research. Judicial Council of California. (2008, April). *Dependency Counsel Caseload Standards: A Report to the California Legislature*, at 8. <https://www.courts.ca.gov/documents/DependencyCounselCaseloadStandards2008.pdf>. In 2020, the American Bar Association reported that “[h]igh caseloads were identified by all stakeholders as influencing the quality of representation.” ABA Center on Children and the Law. (2020). *Effects of Funding Changes on Legal Representation Quality in California Dependency Cases*, at 1. https://www.americanbar.org/content/dam/aba/administrative/child_law/calrep-assessment.pdf.

care, housing, immigration, and a host of other needs, public benefits, and opportunities. Caseload expectations must be set with the whole child in mind.

Caseload measures and limits have become increasingly prevalent, and the maximum number of cases assigned to dependency attorneys has fluctuated dramatically over more than two decades of reform initiatives. Numerous jurisdictions have implemented caseload limits both through contracts and directives from courts or government authorities, including Arkansas², California³, Washington⁴, and Wyoming⁵.

NACC has released new recommendations regarding caseload standards which state “an attorney providing full-time legal representation to children and youth in dependency proceedings should represent no more than 40–60 individual clients, assuming one case = one client (not an entire sibling set), at a time.”⁶ NACC emphasizes a set range to allow flexibility for the different needs of each case, including “travel time, supervisory support, and local court system protocols.”⁷ The recommended range assumes cases are in different stages in the legal process and urges that caseloads should be adjusted when attorneys provide holistic representation to the same client in multiple legal matters. Attorneys should not accept more clients or cases than can be competently handled.⁸

ANALYTICAL FRAMEWORK

Caseload limits and standards should reflect the time that an attorney or office has to invest in each case. An analytical framework should be weighted for complexity, number of children represented in a sibling group, type of proceedings/resolution (e.g., permanency hearing v. contested TPR), collateral court proceedings, and length of case over months or years.⁹

Two important studies offer models of systematic analysis of workload expectations to arrive at optimal caseload numbers. A 2008 report by California’s Administrative Office of the Courts advanced the study of the link between caseload reduction, compensation standardization, and quantifiable,

2 In 2001, the Arkansas Supreme Court set caps for both parent and child caseloads. For child representation as “Attorneys ad Litem,” the rule is that a full-time attorney shall not have more than 75 dependency/neglect cases, and a part-time attorney shall not have more than 25 dependency/neglect cases. *In re Supreme Court Ad Hoc Committee on Foster Care & Adoption*, 338 Ark. App’x 822 (Ark. 1999), amended: *In re Admin. Order No. 15.1*, 2016 Ark. 131 (Ark. 2016). <https://casetext.com/case/in-re-supreme-ct-ad-hoc-comm>. See also, Arkansas Judiciary. *Attorney Ad Litem Program: About Us*. <https://www.arcourts.gov/administration/arjdc/atty-ad-litem>.

3 See Judicial Council of California, *supra* note 1.

4 In 2021 the Washington State Supreme Court Commission on Children in Foster Care convened a workgroup to review and update the standards of practice, caseload limits, and training guidelines for attorneys representing children and youth in dependency and termination proceedings. The workgroup recommended that “Attorneys representing children and youth in dependency and termination hearings on a full-time basis should be assigned to represent no more than 45 trial-level (not appellate) dependency clients at a time and no more than 60 total cases (including dependency and cases collateral to the dependency case, in which representation is required to properly protect the client’s interests in the dependency case).” <https://ocla.wa.gov/wp-content/uploads/2022/10/Child-Representation-Practice-Standards-September-2022-FINAL.pdf>, at 7.

5 In 2013, Wyoming implemented new rules and regulations regarding standards, certification, training, and maximum caseloads for dependency and delinquency lawyers which stated that “an attorney who contracts with, or is employed ... on a part-time basis shall not carry more than forty-five (45) juvenile court cases, including juvenile delinquencies” [and] “an attorney who contracts with, or is employed ... on a full-time basis shall not carry more than eighty-five (85) juvenile court cases, including juvenile delinquencies.” Public Defenders, State. *Chapter 2: Standards, Certification and Training*. (2013). <https://regulations.justia.com/states/wyoming/agency-008/sub-agency-0001/chapter-2/section-2-6/>.

6 National Association of Counsel for Children. (2021). *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings, Part V*. <https://naccchildlaw.org/standards-of-practice/>.

7 *Id.*

8 *Id.*

9 The Wyoming model empowers the court administrator to consider factors that may be used when weighing caseloads: “total workload (including non-GAL cases); case complexity; case difficulty; number of children; age of children; geographic placement of children; service needs of family; quality and aggressiveness of opposing counsel; and the judge’s practice rules and expectations.” See *supra*, note 5.

measurable outcome improvements for children and families.¹⁰ This “Caseload Study” included key features that could be emulated by a children’s law program today:¹¹

- » Interview attorneys, judges, and hearing officers to identify the full spectrum of requisite dependency counsel tasks (“Activities and Task List”)
- » Measure the current workload of attorneys through analysis of attorneys’ time (“Time-Study”)
- » Conduct attorney and other constituent focus groups to identify consensus on appropriate workloads based on Time-Study results¹²

In Pennsylvania, the Statewide Children’s Roundtable expanded on the California model to help calculate optimal caseloads for child and parent representation.¹³ The Pennsylvania study features:

- » Configurable Excel “Time and Task Chart” worksheets to identify the tasks needed in representation — court preparation, hearing time, home visits, service plan meetings, documentation, etc. — and the estimated time needed to accomplish each task
- » “Caseload Calculation” sheets that compile the estimated hours from the time charts to determine the number of hours available to work per year
- » Differential time needs in the first year and subsequent years of a case, multiple sibling cases, and other time-consuming matters such as contested termination of parental rights and appeals¹⁴

Ideally, both models would facilitate a children’s law office or bar-community discussion regarding how much time is needed to deliver the quantum of hours and level of service that the office or community desires as its target or standard of practice.

CONFLICT COUNSEL

Since many communities have a mix of public and private dependency attorneys, caseload analysis should address both private attorney practice (e.g., contracted practices or conflict counsel) and public interest/government-based children’s law office models. Across the country, most of the private attorneys who represent children or parents in dependency practice also maintain a traditional private law office practice, with competing demands on time and compensation. A 2010 statewide study by Penn State University found that in Pennsylvania, public/nonprofit attorneys averaged 225.3 cases per year, while private attorney caseloads averaged 74.5 cases on part-time basis and adjusted for full-time, an average of 271.5 annual cases.¹⁵ Although social work, peer advocate, and paralegal supports are available for the attorney in many children’s law offices, lawyers who represent children through their private law practice rarely have the opportunity for financial support to partner with other professionals to provide legal representation. Just as many public interest entities have developed mechanisms for practice support, communities who rely on private attorney practices should adjust caseloads, compensation, and collateral supports to deliver high-quality legal service.

10 See Judicial Council of California, *supra* note 1.

11 The California report identified an optimal practice standard maximum caseload of 77 [child] cases or clients per full-time dependency attorney and a basic practice standard caseload of 141 clients per full-time dependency attorney. *Id.* at 7. The California study noted that “fiscal realities” prevailed in considering “basic” versus “optimal” caseloads in their pilot study. *Id.* at 8, fn. 2.

12 *Id.*, Appendix 1.

13 2015 Pennsylvania State Roundtable Report: Legal Representation Workgroup: A Call to Action. 2015 Legal Representation Report.pdf (<https://ocfcpacourts.us/wp-content/uploads/2020/06/2015-Legal-Representation-Report33.pdf>).

14 The Pennsylvania study concluded that the total annual caseload per full-time attorney, assuming a turnover rate of 60% case closings during year and including time for complex matters, should be 66 child clients or 87 parent clients. *Id.* at Appendix 4, p. 7.

15 Penn State University. (2010, October). *Assessing the Quality of Child Advocacy in Dependency Proceedings in Pennsylvania* at 31. <https://dickinsonlaw.psu.edu/sites/default/files/2019-11/Assessing-the-Quality-of-Child-Advocacy.pdf>.

CONCLUSION

Children's law offices, courts, and system leaders should take responsibility to ensure competent, trained legal counsel for children and parents, with caseloads that can allow for zealous and effective practice. Every office and jurisdiction should have a mechanism in place to count and report on the numbers of cases assigned to each attorney. A systematic approach to caseload analysis can lead to data-driven decisions about the caseloads of attorneys and other professionals and the total caseload of the children's law office itself.

D.10: Systemic Reform: Policy Advocacy

Ashely Chase, JD, CWLS & Sharra E. Greer, JD

WHY SHOULD CHILDREN'S LAW OFFICES TAKE TIME FROM THE COURTROOM TO DO POLICY WORK?

Direct representation is vital to the children, youth, and families involved in the child protection system; however, skilled policy advocacy is equally important. Participating in policy work ensures that youth voice and perspectives are heard at tables where decisions are made.

Policy advocacy takes many forms:

- » Proactively, to seek needed reforms or establish important rights
- » Reactively, to ensure other policy initiatives benefit youth and youth rights, and to change those that do not
- » Financially, to secure program funding, attorney compensation, or to establish new services for children or youth
- » Narratively, to ensure that children and youth impacted by the system are not invisible to legislators and decision-makers, and to fight stereotypes about who they are and what they are going through

WHERE DOES A CHILDREN'S LAW OFFICE START?

Mechanics

First, the organization must understand the mechanics of the particular state, county, or municipality. Start by asking questions like:

- » When is the legislative session?
- » Where does a bill originate?
- » What is the process from the bill's introduction to its completion?
- » How many committees must hear a bill?
- » How is funding addressed?
- » What rules exist for lobbyists and other advocates?

These mechanics differ from state to state, so each organization should conduct local research and consult with local experts. Establishing relationships with those process experts is a cornerstone of effective policy advocacy.

Relationships

Children's law offices must also build relationships with legislators, particularly those with a key connection to their constituents, organization, or policy area. Think about who will care the most about the children and youth the organization serves. For example, this might be a legislator who has:

- » A legal background
- » A history of working with children
- » Lived experience in the child protection or juvenile legal system
- » A passion for the organization's mission and values
- » A constituent with a compelling story

Law offices may want to start with the leadership and membership of committees that relate to their legal areas — e.g., the judiciary committee or the health and human services committee. Similarly, there may be relevant caucuses to look to, like a children's caucus, or a caucus of members of diverse racial and ethnic backgrounds whose communities are disparately impacted by the system.

In addition to legislators, organizations need to build relationships with lobbyists, advocacy groups, and nonprofits that focus on children's issues. These connections will help the organization get involved, stay informed, and make additional connections. Identify lobbyists working with county or state departments of human services, foster care provider groups, adoption groups, youth mental health advocates, child maltreatment specialists (e.g., children's hospitals), Medicaid agencies, parent advocacy groups, and more. Attend events that are put on by those legislators, lobbyists, caucuses, and advocacy groups so the organization can build a network of professionals that care about children's issues.

Establishing Expertise

Once the organization has reached out to legislators and policymakers, it must establish its expertise in this field. Remember, most legislators may not be attorneys and may have little to no experience with child protection or juvenile legal systems. Legislators rely on experts to help them frame an issue, understand its complexity, and craft language to effectuate their goals. The organization's goal is to become a go-to resource for legislators, lobbyists, and staffers. Attorneys with practice experience are well suited to provide this type of expertise. Other lobbyists and advocates may be well versed in politics, but few have a working knowledge of this area of law and practice. Additionally, children's law offices may be uniquely situated to connect policymakers with youth and others with lived experience. Participating in stakeholder meetings, sending written materials, and giving briefings are effective ways to establish the organization's expertise.

Timing

Timing is key to successful policy advocacy and will be different for each jurisdiction. Offices may need to approach a legislator with an idea months before the legislative session begins. Initiatives that require funding need to be approached at a time consistent with the budget cycle; for example, when agency budgets are being introduced. Beyond calendars and cycles, advocates can have great success by approaching policymakers when an issue is fresh. For example, when a news story brings a problem into the spotlight, capitalize on the opportunity by approaching policymakers with a solution.

HOW DOES A CHILDREN'S LAW OFFICE GET A BILL TO BECOME A LAW?

When an organization has an idea for a new law, or a revision to a current one, it needs to follow the process in that jurisdiction. Understanding the timing of the legislative cycle is critical as the organization works to build support. Before pushing to have a bill introduced, organizations need to also understand the political landscape around the issue. Engage with advocates and experts with whom the organization has formed relationships and research public positions to determine:

- » Who are the likely supporters?
- » Who are unusual or creative supporters?
- » Who will be most influential with the key legislators?

Organizations should also cultivate support from allies and individuals. Understanding who is going to oppose the bill and why will help develop counterarguments and identify other stakeholders that need to be brought to the table.

The next step is to identify a sponsor for the bill — ideally, a supportive legislator who is influential in the committee that the bill will be referred to so they can shepherd it through. It is also sometimes helpful to have bipartisan cosponsors. Relationship building is key to identifying a good sponsor, cosponsor, or pairing.

After identifying a sponsor, legislative language must be drafted. Best practice is to draft language for the sponsor and their staff to use as a starting point. Start with a draft that contains everything the organization wants and then prepare for changes to be made throughout the process. The process of who writes the official bill and how it makes its way to introduction varies from state to state so make sure to understand the process in the relevant jurisdiction. For example, in Colorado an official bill drafter from Legislative Legal Services will draft the bill language and only those with permission from the bill sponsor may work with that drafter. In Washington D.C., there is not an official bill drafter and council members may draft their own language.

After introduction, the bill will get referred to one or more committees. In most jurisdictions there will be a hearing on the bill in at least one committee before it can be raised for a vote. Before the hearing, meet with members of the committee to educate them on the issue and the bill, answer their questions, and address their concerns. Prepare one-page documents that explain the bill, its importance, and its likely impact. As the hearing approaches, speak with various stakeholders and members of the committee to learn who supports and who opposes the bill. Does the bill have enough votes to get out of committee? Which legislators still need to be convinced? What will persuade them?

The hearing itself is an important opportunity to show the need for the bill and support for its passage. Arrange as many supportive stakeholders as possible to testify and ensure some of them can speak to the impact of the bill. Ideally, have testimony that addresses the concerns of non-supportive or undecided members of the committee.

After the hearing, hopefully the committee will vote on the bill and move it out of committee. The bill will then either move to another committee, the body of the whole, or the floor of the chamber of the legislature. The challenge then becomes getting the bill moved for a full vote, requiring similar work to what was done before the committee hearing. This includes educating key members, caucuses, and leaders to gain their support for holding a vote and passage of the bill. Once the bill passes in one chamber, the process likely must start in the other until the bill has passed both chambers and moves to the executive for signature.

WHAT DOES A CHILDREN'S LAW OFFICE DO AFTER THE BILL PASSES?

The work is not done once a bill passes and is signed. Ensuring that good regulations are promulgated is essential to having the law be effective. Meet with the implementing agency to discuss the regulations and make suggestions. Organizations should also participate in any public notice and public comment opportunities around the regulations, which can be a powerful policy advocacy tool on its own. Organizations should participate in notice and comment for all regulations, not just those related to the bill they worked on, as regulatory advocacy can lead to better rules and tools for client advocacy.

Lastly, it takes time for people and institutions to recognize there has been a change and adapt practice to follow the new law. Communicate the change to all affected stakeholders, including practitioners and others involved in implementing the law, through newsletters, social media, and training. Resources will need to be developed and disseminated to help people understand the new law and how to effectively use it.

D.11: Impact Litigation

Bette Fleishman, JD, MA, CWLS

Impact litigation may include class action lawsuits, office-wide appellate strategies, or even individual cases that have systemic impacts.¹ This chapter discusses issues to consider when thinking about filing a class action lawsuit on behalf of children in foster care. In making this decision, law offices must keep in mind that this type of litigation is typically expensive and it takes years for meaningful change to be implemented. In deciding whether to move forward, law offices should consider:

- » What are the most pressing issues?
- » How many issues should be included? If there are many issues, the implementation will be longer and more complex
- » What are the goals of the litigation (local or statewide)?
- » Who is the class of plaintiffs and are there any subgroups?

BEFORE FILING

Identify Constitutional Issues

Consider the problems currently facing children involved in state custody and/or the child protection system. What needs are not being met — and why? Law offices should ensure they have issue-spotting mechanisms in place through supervision, case management, or similar issue-tracking systems. Once the key issues are identified, consider constitutional rights that may be violated. Some examples are:

- » Section 504 of the Rehabilitation Act and Title II of the Americans with Disability Act (ADA) (require that the state ensure meaningful access to the benefits to which children with disabilities are entitled and that children be placed in the most integrated setting appropriate to their needs)
- » Rights under the Fourteenth Amendment (include right to family integrity and right to be kept reasonably safe from harm in foster care)
- » Civil rights claims under 42 U.S.C. § 1983

Identify Statutory Issues

Other issues to track and consider addressing through impact litigation include:

- » Agency staffing issues
- » State provision of mental and behavioral health services, including trauma-informed care and early screening and diagnostic services
- » Foster family training and ongoing support
- » Agency efforts to place children with relatives
- » Agency efforts to place siblings together
- » Institutional/congregate care issues (e.g., overuse of restraint and seclusion, children being sent out of state for treatment and services)
- » Prevalence of youth becoming involved/diverted to the juvenile legal system
- » Compliance with the Indian Child Welfare Act (ICWA)

¹ For more information and examples of child welfare system reforms based on litigation, see Child Welfare Information Gateway resources at <https://www.childwelfare.gov/topics/management/reform/litigation/>.

- » Overuse/over-prescription of psychotropic medication

Identify the Plaintiffs

Be intentional with the choice of plaintiffs. Depending on the plaintiffs' ages, determine if consent and/or a next friend is needed to represent their interest. Consider using pseudonyms that the plaintiffs choose (depending on their ages). When using pseudonyms, concurrently file a Motion to Proceed Using Fictitious Names. Consider also how many plaintiffs the litigation needs and whether the plaintiffs represent a sufficiently diverse class. Finally, ensure that the plaintiffs represent the legal claim and have compelling stories.

Identify the Defendants

Give careful consideration to which agencies or entities to include as defendants — such agencies might include:

- » Child protection agency
- » State Medicaid agency
- » Local or state education agency
- » Local or state department of health or mental/behavioral health
- » Residential facilities
- » Subcontracted placement agencies or service organizations
- » Agency employees, as individuals in their professional capacity
- » Any other individuals, serving in their professional capacity

Identify Partners

Nonprofit offices or small law firms may want to identify a law firm that is willing to co-counsel and assume responsibility for the costs associated with filing a lawsuit. Consider large law firms with a pro bono section that might welcome the opportunity to be part of this type of litigation. Identifying a law firm partner can be accomplished in several ways:

- » Reach out to law firms that the law office already has a relationship with
- » Explore national listservs on child welfare issues that law firms may be a part of
- » Ask board members or other allies for recommendations of firms to partner with

THE COMPLAINT

In addition to the narrative in the complaint, consider including support for its claims. Identify professionals and community leaders in the areas the complaint addresses and, if possible, collect affidavits supporting the claims.

Additionally, consider including information from the agencies' own reports. Other reports that can strengthen the office's case include national reports, current research validating the harm being addressed, and information on best practices.

REMEDIES

Be thoughtful and realistic in the remedies sought. Include specific deadlines, measurable outcomes, and the type of monitoring that will ensure strong accountability. For example, if caseworkers have too many children on their caseload, strive to get an agreement for a certain maximum number of cases. Then, build a system that holds the defendants to the agreement. Require a monthly report be submitted to whoever has oversight so the progress can be monitored.

OPTIONS FOR RESOLUTION

One option for resolution is to explore whether the parties can come to a settlement agreement. Mediation with a skilled mediator familiar with these issues may help avoid court costs and lead to a better result. If a settlement agreement is reached, one option for oversight is to have several co-neutrals — experts in the field who both parties agree to give the authority to ensure the agreement is followed. The state should pay the co-neutral fees. If an agreement is not reached, the office should prepare for a full trial that ideally ends in a consent decree, which the judge, or appointed monitors, will oversee through the court process.

AMICUS BRIEFS

Submitting an amicus brief in support of another entity's lawsuit is another way to get involved and create policy change through litigation. Amicus briefs are appellate briefs submitted by a person or group that is not involved directly in the litigation but has the same or similar interest in the outcome of the cases.

III: SYSTEM-SPECIFIC CONSIDERATIONS

A: SPECIAL CONSIDERATIONS FOR NONPROFIT ORGANIZATIONS

Judith Sandalow, JD

LEGAL REQUIREMENTS OF NONPROFITS

Nonprofit organizations operate to advance the public good, not for the financial benefit of their owners. The nonprofit designation is created by the Internal Revenue Code, and an organization must apply for and receive a nonprofit designation from the Internal Revenue Service (IRS)¹ before it can claim nonprofit status.

The key benefit of being a nonprofit is that the organization is exempt from paying most taxes, and donations to a nonprofit are tax deductible. Most foundation grants and many government grants and contracts are only available to nonprofit organizations.

Although there are several tax-exempt structures, most legal services providers are public charities under section 501(c)(3) of the Internal Revenue Code. To maintain a nonprofit designation, an organization:²

- » May not endorse or support specific candidates for elected office
- » May not expend significant resources on lobbying for or against specific legislation
- » May not reap a profit for individuals associated with the nonprofit
- » Must show public support through diversified funding streams
- » Must file an annual tax return (Form 990)

Other requirements are governed by state law and often include requirements related to the composition of a board of directors, open meeting laws, and financial transparency.

The primary myth about nonprofits relates to lobbying restrictions. In fact, nonprofits can influence legislation and work with government agencies. The definition of lobbying is narrow, and lobbying is allowed if lobbying expenditures do not constitute a significant percentage of the nonprofits' resources.³

BOARD OF DIRECTORS

Nonprofit organizations are corporations and are required to have a board of directors.⁴ The board sets the strategic direction of the organization, manages the financial health of the organization, and ensures compliance with relevant laws. Individually, board members have no authority, but collectively the board of directors has the power to set or change the mission of the organization, adopt a strategic plan, hire, fire, evaluate, and set compensation for the executive director, approve budgets, and make other key decisions.

1 IRS. *Application Process*. <https://www.irs.gov/charities-non-profits/application-process>.

2 IRS. *Exemption Requirements - 501(c)(3) Organizations*. <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations>.

3 IRS. *Lobbying*. <https://www.irs.gov/charities-non-profits/lobbying>. The Alliance for Justice's Bolder Advocacy program provides an excellent training – visit www.bolderadvocacy.org.

4 IRS. *Definition of a Corporation*. <https://www.irs.gov/charities-non-profits/definition-of-a-corporation>.

Board members owe a duty of care, loyalty, and obedience to the organization, meaning that they have a duty to be informed, make decisions that further the mission, and comply with the law. State laws may vary, but a good source of information and best practices is BoardSource.⁵

The role of the board of directors will vary with the needs of the organization. New organizations often have “working boards” who participate directly in the substantive work of the organization, conducting some of the same activities as the staff. Boards of directors in more mature organizations leave the day-to-day management of the organization to staff leadership. In addition to providing legally required oversight, they act as ambassadors and fundraisers, opening doors to important relationships and resources.

As with all groups, ensuring a diversity of expertise and experience allows a board to make more thoughtful, informed decisions. In addition to diversity related to profession, skill, race, gender and sexual orientation, many organizations include former clients or members of their client community on their board of directors. Effectively including the perspectives of a diverse board of directors takes intentional work.

The role, composition, and management of boards of directors is the subject of discussion and debate. Children’s law offices should engage with other nonprofit leaders, consider local law, and review the wealth of literature on the topic. Making strategic choices about how to engage with a board of directors will depend on the community norms and the organization’s needs.

NONPROFIT HEALTH

Having a clear vision of what organizational health looks like will help a nonprofit children’s law office design a roadmap for successful operations and allow for course-correction along the way. This will look different for every organization depending on structure, needs, and goals. Adapted from the Nonprofit Leadership Lab’s *14 Attributes of a Thriving Nonprofit*,⁶ here are some key “ideal state” attributes that nonprofit children’s law offices may want to consider in their organizational development:

5 BoardSource. *Purpose-Driven Board Leadership*. www.boardsource.org.

6 Nonprofit Leadership Lab, LLC. (n.d.). *14 Attributes of a Thriving Nonprofit*. <https://members.nonprofitleadershiplab.com/wp-content/uploads/2021/03/NLL-14-Attributes-v2.1.pdf> (last visited October 30, 2023).

	ATTRIBUTE	IDEAL STATE
PEOPLE	Board Diversity	Board has demonstrated its commitment to diversity in its recruitment strategy and has engaged in DEIB work and ongoing training. Power is shared. Individual members respect the full value of the skills and attributes brought by diverse members.
	Board Responsibility	Board is clear about its responsibilities and engages in ongoing enrichment and training. Board understands that it has a very important job to do — fiduciary and governance.
	Leader Relations	High-functioning partnership where board and staff each know their roles. Both model inclusion, foster belonging, and are committed to ongoing DEIB training.
	Leadership Pipeline	“Leadership” is seen as a key attribute of recruitment. Robust and diverse pipeline created and nurtured.
	Performance Reviews	Regular performance reviews/assessments.
	Recruitment and Retention	Seen as a workplace of choice. Staff feels a sense of commitment and agency. Hiring process is transparent.
FINANCIALS	Stability	Board and staff partnership. Solid cash reserve. Strong positive cash flow. Operating expenses of at least one month in the bank and three to six months available as unrestricted cash balances. Little debt. No long-term accounts receivable or accounts payable.
	Fundraising	Revenue streams are balanced and diverse. Strong data foundation. Board generates prospects/donations. Eye toward community-centric fundraising.
PROGRAMS	Mission-Centric	Each program is evaluated and is integral to the success of the strategic plan. All are mission-centric and values-based with clear, measurable outcomes.
	Metrics and Evaluation	Qualitative and quantitative metrics are in place with a dashboard reviewed by board and staff regularly.
EXTERNAL RELATIONS	Brand / Message	Clear, strong, compelling, integrated, targeted, and highly visible external presence. Understood and communicated clearly by all stakeholders. Sophisticated and deep understanding of all stakeholder segments.
	Outreach	Integrated and scalable strategy for growing, segmenting, and engaging diverse stakeholders in the work. Reflective of the community and mindful of the experience of the end recipient.
	Stewardship	Executive Director is visible, vocal, and effective public champion/voice. Board members excited to share stories (in person, on social media), building reach/prospects.
STRATEGY	Strategic Planning	Staff, board, and other stakeholders develop a clear, engaging, mission/vision-driven plan. DEIB is organically present and measurable throughout.

B : SPECIAL CONSIDERATIONS FOR CIVIL LEGAL AID MODELS

Amy Honodel, JD, CWLS & Janice Wolf, JD, CWLS

BENEFITS AND CHALLENGES

In some jurisdictions, the lawyers representing children in child protection cases are employed at a nonprofit legal aid office. There are a number of advantages to housing the children's attorneys within a larger, integrated legal aid organization:

- » Human resources, IT, and administrative functions are handled by dedicated employees who serve the entire firm, allowing the children's lawyers and professionals to focus on representing children in the child abuse and neglect legal system
- » The children's law unit may have access to generalized funding streams
- » The children's lawyers have the ability to cross-refer families for additional legal assistance; it is not uncommon for a family with system involvement to need assistance with an unrelated matter, such as a landlord/tenant dispute
- » Many larger legal organizations run a pro bono program, which can be used by the children's lawyers to find representation on cases which present a conflict of interest or which require larger policy work or litigation that is beyond what the children's lawyers can handle

Additionally, when a children's law office is part of a larger legal aid organization, the children's unit can benefit from the size and visibility of the organization. Legal aid leaders enjoy a relationship with elected officials and judicial officers in the provision of quality legal services to those who cannot afford an attorney and, as a result, are able to engage in proactive policy work. Internally, legal aid attorneys are able to staff complex issues, bringing a variety of backgrounds and expertise to help identify when to challenge, whether by appeal or by statutory change, established law. There may be the opportunity to work with a lobbyist or policy advocate outside of the office.

There can be drawbacks, however:

- » The office may experience more conflicts of interest, usually as the result of a party accessing legal aid services before the child protection case began. For example, a client may use a legal aid office to obtain a restraining order against an abusive spouse. If that client's children are later placed into foster care, the children's law office may not be able to represent the children under that jurisdiction's conflict rule (i.e., the state's version of ABA Model Rule of Professional Conduct 1.9). Other conflicts arise when a former child client is now a parent facing removal of their own children.
- » Administrative policies and benefits are usually tailored to fit a variety of jobs. For example, a freestanding children's law office may offer a generous mileage reimbursement rate for visits with clients in foster homes or pay for a cellphone for use during work hours when visiting clients. Such benefits may not be feasible at an integrated law office with a large staff with varying job duties.

CONFLICTS

Although there is a potential for more conflicts with an integrated legal aid office, they are manageable with the right written policy. Developing such a policy should include:

- » Checking with the legal aid's professional liability insurance carrier (i.e., E&O carrier) for any requirements on a conflicts policy

- » Correctly using a case management software that can run a conflicts check that compares potential new clients, along with other case parties, against a list of prior clients
- » Adopting a process for reviewing the conflicts report based upon the applicable rules of ethics and training attorneys on that process
- » Identifying a dedicated staff member to assess potential conflicts
- » Developing a protocol for conflicts involving a personal interest of an attorney that may include the ability to wall off cases or staff from a particular matter
- » Finding a pro bono program to which matters that do present a conflict of interest can be referred

FUNDING

A vast number of integrated legal aid offices use Legal Services Corporation (LSC) funding to meet their budget. Although LSC is an independent nonprofit organization dedicated to equal access to justice, its operation is based upon federal funding and law. As a result, the federal government has identified a number of activities which its grant recipients cannot do: abortion litigation, housing litigation involving evictions resulting from the use of illegal substances, class action lawsuits, welfare reform, and lobbying.¹ LSC laws also significantly limit activities and advocacy on behalf of non-citizens. Many child protection cases involve clients with these issues; LSC funding may prevent the children's law office from taking a holistic approach to representing a child in foster care.

This leads to the question: how does a children's law practice within a legal aid office obtain operating funds? Sources include:

- » Reimbursement under Title IV-E
- » Private grants and endowments
- » Federal grants (grants.gov)
- » Allocations from county/state resources, such as a county ordinance directing a portion of the filing fee for new civil cases be directed to the legal aid office

None of these should be used exclusively; best practice is to utilize multiple funding streams so that the loss of one resource is not catastrophic. Setting aside Title IV-E funds, the other sources require convincing others that representing children is the most noble of causes. To do that, it is helpful to have a "bank" of compelling success stories at the ready for funders.

GETTING STARTED

Although there is no set formula for creating a program for children's lawyers within a legal aid office, there are basic concepts to be incorporated into any plan. First, there must be a clear, defined role for the attorney representing a young person in a child protection case; the organization should decide whether the lawyers will be client-directed, best interests-driven, or a hybrid of the two models (which may be dictated by the jurisdiction's statutes or rules). By making this decision early, lawyers will be consistent in their approach. Second, plans for funding and growth should be regularly evaluated. Cases can linger in the child abuse and neglect legal system for years, but the population of children in the care of a child protection agency fluctuates based on a variety of factors. Those children experience changes in placements, schools, and caseworkers, but should not face the loss of the legal aid

¹ Legal Services Corporation. (2023, March 29). *LSC Restrictions and Other Funding Sources*. <https://www.lsc.gov/about-lsc/laws-regulations-and-guidance/lsc-restrictions-and-other-funding-sources>.

office protecting their rights. Lastly, the program should focus on quality over quantity. In creating the program, legal aid offices should consider caseload standards, training and support, and retention as discussed throughout this guidebook. With these concepts in mind, a quality child advocacy program can certainly be part of almost any civil legal aid organization.

C : SPECIAL CONSIDERATIONS FOR PUBLIC DEFENDER MODELS

M. Alexis Pollock, JD

One model for a children's law office is to operate within an executive branch public defender office. In this model the children's law office is housed within a much larger, well-established government agency. Benefits of this model include:

- » Administration is managed by the public defender office, leaving the children's law office to focus on the practice of child protection law
- » Government-funded criminal defense for individuals who qualify is legally required and not subject to undoing in the future, which provides a level of permanence for children's law offices operating in this model
- » Inclusion in the larger agency can bring stability, consistency, and sustainability to the children's law office, provided it is treated as a valued cohort within the public defender office

For this model to succeed, the public defender office must provide firm, ongoing support to the children's law office.

INDEPENDENCE (LEADERSHIP, BUDGET, ADVOCACY)

Agency support must be balanced with recognition of the unique aspects of managing a children's law office. The children's law office must have a level of independence from the public defender office in terms of its leadership, budget, and advocacy. Children's law office leadership will most likely be invited to sit on an array of national, state, and local committees and associations specific to child protection law. The public defender agency should permit participation and accept these commitments as a necessary employment obligation. Additionally, to ensure sufficient resources to provide meaningful representation and access to additional state and federal funding sources, children's law office leadership should be an equal participant in drafting the public defender agency budget. Finally, children's law office staff must have the independence to advocate for initiatives that further representation of its clients, even if the initiatives are not aligned or possibly in conflict with other constituents represented by the public defender agency.

OPERATIONAL SUPPORT

Children's law office management should participate in the administration of the agency as equal partners with criminal defense management. Children's law office leadership should report directly to the chief public defender and should have responsibility for and input into the management and administration of the agency.

Key administrative functions should be provided by the public defender office, including:

- » Human resources services (hiring, payroll, benefits, employee discipline, union negotiation)
- » Information technology services, products, and support
- » Facilities management
- » Administrative support
- » Fiscal support
- » Operations management

RECRUITMENT, RETENTION AND PROFESSIONAL DEVELOPMENT

One potential benefit of incorporating a children's law office within a public defender office is greater staff recruitment and retention. Salaries of many public defender offices are calibrated to prosecutor and attorney general office salaries. These salaries are generally higher than public interest and nonprofit organization salaries. The public defender office may offer employees a more generous and diverse benefits package due to a larger number of staff participating in the benefit plans than at an independent children's law office. Higher salaries and generous benefits packages pave the way for successful recruitment and retention of quality attorneys dedicated to the practice of child protection law.

Increased opportunity for staff professional development and training is another potential benefit of operating a children's law office within a public defender office. Such benefits may include:

- » The network and credibility of the public defender office may result in the children's law office having access to trainers it would not otherwise attract
- » The children's law office may have access to a training facility or larger offices with rooms designed for training maintained by the public defender agency
- » The public defender office may even have a director of training to support the children's law office's training efforts
- » The larger agency may handle the continuing legal education process with the state licensing agency for children's law office attorneys

STAFF SUPPORT

Children's law office staff should receive equivalent support to criminal defense staff and other disciplines in the agency. Staff resources should include sufficient investigative and secretarial staff, mobile computers and cell phones, Westlaw or Lexis accounts, law book subscriptions, and reimbursement for travel to client visits. Ideally, support would also include reimbursement for annual attorney licensing fees, bar association membership fees, and practice-specific electronic and print resources.

HOLISTIC AND CROSS-DISCIPLINE LEGAL REPRESENTATION

Cross-discipline training and collaboration may be available in the public defender office model. Parents and children involved with the child protection system may also be involved with the criminal legal system. Attorneys representing the same client in different actions may collaborate if the client's interests in multiple matters are aligned. Additionally, children's law office attorneys can gain knowledge of additional practice areas from their colleagues in the larger agency that may impact their clients.

Public defender offices may also have specialized sections devoted to appellate, legislative, and high-impact litigation advocacy. These specialized sections may benefit the work of the children's law office. For example, an in-agency government affairs section may have relationships with legislators and experience with drafting successful bills that the children's law office could leverage to advocate for legislative changes.

CONFLICTS OF INTEREST

The public defender office is typically a part of the executive branch of government, under the administration of the governor. Child protection cases are unique in that children and parents may be represented by an executive branch public defender office and the child protection agency may also be represented by an executive branch prosecution office. The heads of both law offices may report to the same entity (e.g., the governor).

Potential conflicts of interests to consider include:

- » Agencies representing parents and children may be encapsulated in a public defender agency, requiring diligent screening of cases and clients, but offering opportunities for collaboration beneficial to the parties.
- » Children and/or parents represented in a single matter may have conflicting interests requiring multiple parties to be assigned to attorneys outside the agency or assigned to a conflict section within the agency.
- » The agency may have a conflict representing relatives of formerly represented clients (e.g., siblings, cousins, adult children, aunts, uncles, etc.), requiring vigilant screening methods and adherence to the applicable rules of professional conduct.

POTENTIAL CHALLENGES

Children's law offices housed within public defender offices may face some challenges. For example, the work of the children's law office most likely will comprise only a small fraction of the work of the public defender office and the nature of child protection law may not be seamlessly integrated into the public defender office mission. This may result in the children's law office getting less support than other divisions of the agency and not having an equal opportunity to participate in management decisions impacting the children's law office's staff. A potential remedy would be to include children's law office leadership in the recruiting, interviewing, review, and promotion process of its staff to ensure employees assigned to the children's law office are well suited to and interested in the child protection practice area.

Also of significance, the marketing, branding, and media designed to increase awareness of the public defender office will likely differ from the children's law office marketing and media needs. This challenge can be addressed by the public defender office permitting the children's law office to undertake independent marketing initiatives using the name assigned to the children's law office.

Another potential challenge is that the public defender office's procedures and resources may not quite fit the needs of the children's law office. Examples include:

- » Children's law office attorneys and investigators may need greater access to state cars or transportation reimbursement to visit child clients in their homes and communities than other public defender agency staff
- » The operating systems and technology used by the public defender criminal law sections may require modifications to suit the practice of child protection law (for example, the case management system may need to be expanded to accommodate a child protection case spanning multiple years with a variety of trials and hearings, multiple dockets related to one family, and the need to capture caregiver information in the system)
- » Performance management tools may need to be refined to measure children's law office staff performance where it differs from other practice-area staff, such as a monthly requirement for face-to-face client visits

None of these challenges reduces the benefits of operating a children's law office within a larger public defender office. Children's law office leaders should consider potential pitfalls and engage in an open dialogue with leadership in the public defender office and other stakeholders when developing an operating plan for a children's law office under this model.

D : SPECIAL CONSIDERATIONS FOR STATE AGENCY MODELS

Sheri Danz, JD, CWLS & Michael Dsida, JD

Although each state (or county/municipal) agency may have a distinct mandate, organizational setting, and method for delivering attorney services, the following considerations endeavor to support all state agencies in maximizing the potential of this model.

GUIDING PRINCIPLES

A strong mission and vision statement, along with concise and intentional organizational values, promote internal clarity, public transparency, and consistent messaging.¹ Although the agency's enabling legislation and legislative charge may set the parameters for these guiding principles, a collaborative and inclusive articulation/development process that includes staff and, as possible, clients, ensures their ongoing relevance and reliability over time. These principles should address the important goals of advancing justice, diversity, equity, and inclusion.

Once established, these principles should be reiterated, reinforced, and regularly used. They should appear on the agency's website, in published documents, and in presentations. Leadership and staff should reference and rely on these principles when making decisions about the allocation of resources, development of policies, and resolution of issues.

GOVERNANCE

An intentional and organized governing structure promotes accountability, efficiency, and adherence to the agency's mission and values. Whether an agency is an independent agency overseen by a board, or part of a larger governmental organization, invested leadership, a coherent organizational chart, and clear decision-making frameworks optimize input from all staff and maximize the time employees can dedicate to purposeful planning and implementation. State agencies should identify and create opportunities to incorporate lived expertise in governing structures and policy, programming, and advocacy priorities.²

For example, the Colorado Office of the Child's Representative (OCR) has established a Lived Experts Action Panel (LEAP). This group consists of approximately twelve young adults with lived experience and expertise in Colorado's child protection and/or juvenile legal systems. OCR's LEAP members provide feedback on OCR's legislative advocacy, policies, and attorney selection processes. Additionally, some members elect to provide training to OCR attorneys and other stakeholders, testify on legislative issues, and develop resources for attorneys and youth. The goals of the LEAP are to:

- » Provide young adults opportunities to share experiences, feedback, and ideas about OCR attorneys and the court with supportive peers and adults
- » Grow personal and professional networks
- » Learn about topics they are interested in, including what OCR and OCR attorneys do
- » Gain skills and knowledge they can use in their everyday lives
- » Participate in OCR's efforts to create and improve laws, policies, and attorney practice in ways that serve the best interests of youth³

1 See also, Chapters II.A.2: Strategic Planning; II.B.3: Diversity, Equity, and Belonging; and II.C.1: Setting the Vision.

2 See also, Chapter II.C.3: Engaging Lived Experience Experts and Staff.

3 More information about OCR's LEAP is available at <https://coloradochildrep.org/about/leap/>.

STAFFING AND INFRASTRUCTURE

Whether providing legal representation through a staff model office, independent contracts, a combination of these approaches, or another model, state agencies should cultivate a respectful, collaborative, and supportive environment that recognizes and reinforces the value of all staff members' expertise, experience, and contributions. The agency's ability to fulfill its mission and provide the best legal representation possible depends on its expertise in such areas as operations, finance, information systems, social science, training, legal, and policy. Role clarity, opportunities for teamwork and collaboration, individual strength assessments, equitable access to professional development opportunities, and recognition of all team members' accomplishments help to ensure that all staff feel (and are) valued and are engaged in the agency's day-to-day and long-term strategic work.

A sustainable infrastructure for conveying expectations and responsibilities, organizing the agency's programs and operations, and documenting decisions and policies provides the foundation for the agency's substantive work. Although developing and maintaining administrative policies, employee handbooks, filing/documentation systems, and strategic plans may understandably feel like bureaucratic and unrewarding tasks as compared to the legal and policy work of the agency, the time spent creating a coherent, sustainable, and efficient infrastructure through these and other tools constitutes a worthwhile investment in the foundation that supports the agency's substantive work.

FUNDING AND BUDGET

State agencies are uniquely situated to access state dollars. Funding legal representation for children and youth with state dollars represents an important investment and policy decision by state governments. State agencies that benefit from this funding approach to legal representation should ensure that their budgets reflect their true priorities and needs, demonstrate accountability to taxpayers, and optimize alternative funding sources when appropriate.

A state agency's budget request is one of its strongest advocacy tools and most important policy statement. It is through the budget request process that a state agency communicates its priorities and explains the importance of its work to the legislature. State agencies must request funding that allows case-carrying attorneys to dedicate time to and receive adequate compensation for the specialized, emotionally difficult, legally complex, and incredibly impactful legal representation these cases demand and children and youth deserve. Although state agencies must be strategic and realistic in funding requests, they should use all opportunities to explain their true budgetary needs and the importance of funding legal representation for children and youth. For example, attorney shortages or turnover due to low salaries or rates may lead a state agency to request a budget increase even during difficult state budget years. Including a detailed narrative describing the shortages, the difficulties attorneys face making a living within existing rates and salaries, and the direct impact on the representation of children and youth will help explain the reason for a request in a persuasive manner that preserves the agency's credibility. Case examples, quotes, and data serve as important tools in portraying a vivid and relatable description of the need.

Requesting and relying on state funds requires strong adherence to the principle of taxpayer accountability, as taxpayers ultimately fund the agency's work. State agencies can adhere to this principle through transparency in their costs and expenditures, administrative structures that funnel the overwhelming majority of the agency's budget to direct legal representation of children and youth, and protocols and policies that ensure dollars are appropriately spent. Such protocols and policies include requiring salaried attorneys to account for their time and, for contract attorneys, routine invoice review to identify potential issues. These policies and protocols must not chill zealous advocacy or

interfere with attorneys' professional assessment of the strategies necessary to effectively advocate for their clients. For example, presumptive case expenditure caps should always allow an attorney to explain the need for additional funds and receive such funds when necessary.

A 2019 update to the Children's Bureau Child Welfare Policy Manual allows states to claim partial matching Title IV-E funds for the legal representation of children and parents.⁴ State child representation agencies are well positioned to develop protocols and agreements with child protection agencies to draw down these dollars, funnel them into enhancements and expansion of legal services, and monitor and report on their use. Memoranda of understanding, interagency agreements, and legislation serve as important tools in memorializing and institutionalizing these agreements and procedures.

ESTABLISHING A STATEWIDE PRESENCE AND RESPONDING TO REGIONAL/LOCAL NEEDS

Although its main/executive office is likely located in a metro area location, a state agency is responsible for meeting statewide needs and ensuring that children and youth throughout the state have access to high-quality legal representation. State agencies should establish a statewide presence, develop, and maintain relationships with attorneys and stakeholders throughout the state, and ensure the prioritization of all regional needs. Strategies such as ongoing contact and regular visits to other locations or judicial districts, assigning staff as county/judicial district liaisons, accessible statewide training, and inclusion of remote and rural attorney representatives in leadership opportunities help establish and maintain this presence.

RELATIONSHIPS AND IMPACT

State agencies that provide legal services to children and youth have a unique opportunity and responsibility to ensure the representation of the youth voice and experience in policy and other decisions. Relationships with attorneys, judicial officers, child welfare stakeholders, legislators, bar associations, community organizations, and other state and governmental agencies support state agencies in accomplishing their mission and maximizing their impact. Developing relationships through ongoing communication, participation in state and local committees, presentations and training, and a presence at the capitol advance this effort. In these relationships, credibility is essential. State agencies should be clear about the parameters of their expertise and involvement, follow through on commitments, and find opportunities to promote youth voice and participation.

CONFLICT CONSIDERATIONS

The breadth of a state agency's services requires careful planning to avoid conflicts of interest in legal representation, policy advocacy, and resource allocation, particularly if the state agency provides legal representation on multiple case types or to multiple parties. Agencies should take care not to prioritize resources or policies for one party or case type at the expense of others. Case management and billing systems that allow for proactive and efficient conflict checks, as well as a sufficient pool of independent conflict attorneys in each judicial district, allow state agencies to provide the conflict-free legal representation to which every child and youth is entitled.

4 Children's Bureau. (2020, December 7). *Child Welfare Policy Manual*. § 8.1B # 32. https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/cwpmall_1.pdf; See also, U.S. Department of Health and Human Services, Administration of Children and Families. (2021, January 14). *Utilizing Title IV-E Funding to Support High Quality Legal Representation for Children and Youth who are in Foster Care, Candidates for Foster Care and their Parents and to Promote Child and Family Well-being*, Log No: ACYF-CB-IM-21-06. <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2106.pdf>.

E: SPECIAL CONSIDERATIONS FOR PRO BONO MODELS

Timothy Michaels-Johnson, JD

INTRODUCTION

When deciding on the best model for the jurisdiction, one must weigh a number of considerations — including whether a pro bono model fits the jurisdiction's representation needs. The largest expense (and potential barrier) of any children's law office is the cost of salaries and benefits for the number of attorneys and staff necessary to provide high-quality legal representation. According to the National Association of Counsel for Children, an attorney for children should represent no more than sixty children at any one time.¹ Depending on the number of children to be served in the jurisdiction, this limitation may be prohibitive without the support of pro bono attorneys.

Although 80.6% of attorneys believe pro bono services are either somewhat or very important, less than 50% indicate they are likely or very likely to provide pro bono services.² Barriers to pro bono practice include lack of time, other commitments, and lack of skills or experience in the practice area.³ For a pro bono-reliant children's law office practice, the 'lack of skills or experience' barrier is particularly pertinent, with about 43% of pro bono attorneys serving in juvenile law expressing this was a practice outside their area of expertise and 32% indicating the work was inconsistent with their expectations.⁴

RECRUITMENT

When recruiting pro bono attorneys, the children's law office must understand their audience and how best to encourage participation. Varying motivations drive different types of attorneys to volunteer. Those in private practice are most motivated by judicial solicitation, while those in corporate, government, nonprofit, and academic practice are most motivated by the provision of malpractice insurance by the children's law office.⁵ When preparing a pitch for recruitment of pro bono attorneys, the office should consider involving judges and attorney colleagues, providing malpractice insurance, and giving CLE credit for volunteer hours (where possible); these benefits may improve results.

In addition, the office must create appropriate expectations for representing children in this niche field of law. Pro bono attorneys need to understand:

- » Average length of a case in the jurisdiction
- » Model of representation (expressed interest, substituted judgment, and/or best interest)
- » Scope of representation
 - Types of hearings
 - Trial work (nonjury and jury)
 - Appellate work
 - Limited scope opportunities

1 National Association of Counsel for Children. (2021). *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings* at 19. <https://naccchildlaw.org/standards-of-practice/>.

2 ABA Standing Committee on Pro Bono & Public Service and the Center for Pro Bono. (2018). *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers at 18* [hereinafter *Supporting Justice*]. https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/lis_pb_supporting_justice_iv_final.pdf.

3 *Id.* at 20.

4 *Id.* at 17 fig.13.

5 *Id.* at 34-35.

- » Caseload limitations
- » Insurance requirements

One of the top motivations for attorneys seeking pro bono practice is a limited scope of representation.⁶ Finding ways to limit the time and/or scope of involvement in a case may increase the number of pro bono attorneys the office is able to recruit (examples include engaging pro bono attorneys to try a hearing, to handle an appeal, or to conduct research on a particular legal theory). However, best practice in legal representation of children in child protection cases is not conducive to this recruitment tool, as these cases generally call for extensive and expanded legal representation across a number of legal fields.⁷ The best way to combat this barrier to recruitment, while improving the impact of pro bono attorneys, is with appropriate training and mentorship opportunities.

TRAINING AND MENTORSHIP

Prior to taking their first case, pro bono attorneys need a foundational training on the practice and procedures of child protection law in the jurisdiction, including a detailed review of applicable statutes, an explanation of representation expectations, and consideration of unique ethical requirements. This training should be offered at regular intervals to maintain a stream of available, trained pro bono attorneys. The office should make trainings on more nuanced topics related to representation of children, including education, mental health, delinquency, culture and identity issues, and other topics specific to the jurisdiction, available on a consistent basis.⁸

In addition to training requirements and opportunities, mentorship and support are a must. The most common supports relied upon by pro bono attorneys include:⁹

- » Sample forms/documents
- » Regular check-ins
- » Mentoring
- » Troubleshooting issues

As this field of law generally will be outside the typical practices of pro bono attorneys, the children's law office must provide them with easy access to resources such as a document bank, important statutory cites, appropriate case law, and other related materials to better inform their practice. In addition, providing access to experienced attorneys immersed in child protection law who can provide mentorship and troubleshooting support is important to ensure consistent, high-quality legal representation. The office must offer this support proactively and not rely solely on pro bono attorneys to seek this assistance. The children's law office should make regular efforts to reach out to pro bono attorneys, checking in on them and their cases and actively offering opportunities for support and mentorship.

Other opportunities to support pro bono attorneys include administrative support such as producing an up-to-date case file, making court runs to file motions and orders and serving parties with those filings, and providing docket reminders. Given the nature of legal practice, the office should also provide pro bono attorneys a procedure to request court coverage if they are unable to attend a hearing or request specialized support from an experienced attorney, e.g., in second-chairing trials, assisting with legal research, or writing and responding to appeals.

6 *Id.*

7 *NACC Recommendations, supra* note 1, at 29.

8 *See also*, Chapter II.B.3: Training and Mentoring and II.D.1: Core Competencies.

9 *Supporting Justice, supra* note 2, at 12.

CASE ASSIGNMENTS

An office that uses pro bono attorneys for legal representation for children will need to determine how those attorneys will be assigned to a case. The office should reach an agreement with their court on how appointments will occur. For example, the court can appoint pro bono attorneys from a list of available attorneys provided by the office directly, or the court can appoint the office, permitting the office to identify and sub-appoint an available pro bono attorney.

Generally, an office appointment model is recommended. This method provides the office with the opportunity to ensure the availability (and willingness) of pro bono attorneys, provides time for the necessary conflict checks, helps manage caseloads, and enables the office to have more control over the quality of legal representation. However, the key to utilizing this model is having an attorney available to provide interim representation until the office appoints a pro bono attorney. This could be an office staff attorney or a pro bono attorney dedicated to representation of new clients pending reassignment.

Other benefits of the office appointment model include providing the office with significantly more control over the tracking of clients assigned and the supervision and recognition of pro bono attorneys. Utilizing case management software, clients assigned to the office can be documented prior to assignment to a pro bono attorney, making it much easier to regularly monitor for case updates, whether from the pro bono attorney or the court directly. This enables the office to track how long a client's case is open and the end results of the pro bono attorney's representation. If the office's case management software allows for updates to be made by the pro bono attorney, training on the procedures and expectations of updates must be provided.

In addition, the office appointment model allows the office to supervise the quality of legal representation. By treating pro bono attorneys as independent contractors, the office can ensure the client receives the representation they deserve. The office must maintain regular contact with pro bono attorneys throughout their representation and have an open line of communication with the court and their staff. A positive and open relationship with the court and staff can alert the office to potential issues or concerns with a pro bono attorney's representation of a client — e.g., failing to appear for hearings, appearing unprepared, improperly advocating for a client, or failing to acknowledge a conflict of interest. Should such issues arise, the court can rely on the office to resolve the concerns through training and intervention without the court's direct involvement. Intervention may include one-on-one mentorship and instruction, closer observation by attending hearings, providing another experienced attorney to second-chair a case, or requesting a pro bono attorney remove themselves from a case or client. In extreme circumstances, the office may need to file a motion seeking the substitution of counsel. As pro bono attorneys are expected to make an entry of appearance, any change in representation must ultimately be approved by the court.

Finally, with the open communication provided by the office appointment model, the office can be aware of exceptional representation provided by pro bono attorneys, enabling appropriate recognition. Although recognition of an attorney's pro bono work may not be sufficient motivation for providing pro bono work¹⁰, the office should recognize those giving of their time and talent to serve children — e.g., shout-outs on social media or in a newsletter, volunteer appreciation events with awards for particular feats, or highlighting successes in promotional videos. As a side benefit, publicly recognizing current volunteers can assist in recruitment by highlighting the positive impact the pro bono attorney had on the life of a child — the number one motivation for providing pro bono services.¹¹

¹⁰ *Id.* at 19.

¹¹ *Id.*

OTHER VOLUNTEER OPPORTUNITIES

Whether a children’s law office decides to proceed with a pro bono attorney model or not, consider involving other volunteers in the office. Lay volunteers with a variety of life experiences, especially those that may have lived experience within the child protection system, will provide a diverse perspective in the office as they provide support with administrative tasks, event planning, or oversight on the office’s board.

Similarly, law students can provide a new perspective on the practice as the office leaves an indelible mark on their career path and future practice. Look to local law schools for opportunities to provide externships, supervise limited licensed interns,¹² and support legal clinics. In addition to introducing students to this important field of law, involvement in pro bono work as a law student may lead to increased pro bono practice after graduation.¹³

¹² Law students or graduates granted limited licenses to practice law under direct supervision of a licensed attorney pursuant to the rules in a particular state.

¹³ *Supporting Justice*, *supra* note 2, at 23.

F: SPECIAL CONSIDERATIONS FOR CONTRACTOR MODELS

S. Annie Chung, JD, Sheri Danz, JD, CWLS & Michael Dsida, JD

STRUCTURE AND GOVERNANCE

In some jurisdictions, lawyers for children are provided primarily or exclusively through contracts with non-employee attorneys or with law firms. When establishing a contractor model, programs must consider, among other things:

- » The type of contractual arrangement they will have with attorneys
- » How to structure and facilitate payments
- » How cases will be assigned
- » Limits on the number of assignments
- » How the program will be managed and governed

Contractor programs address these issues in a variety of ways. Some contractor programs use a fee-for-service model, under which attorneys are paid an hourly rate for their work, with no formal contract. Attorneys may be required to accept a certain number of assignments as a condition of participating in such a program, or they may be free to accept or reject potential assignments as they see fit. Other jurisdictions use formal written contracts. Written contracts may involve an hourly rate, a per-case flat fee, or a larger flat fee that requires the contractor to accept all or a certain percentage of assignments in a particular court or within a particular geographic area. Written contracts will generally be a better way to establish expectations for both parties — though expectations may also be established through program rules and performance standards.

There are variations within these approaches as well. Contractors paid an hourly rate may be paid at different rates based on whether the work involved was in-court or out-of-court advocacy, and they may or may not be paid for travel. There may also be limits (often referred to as “caps”) on the total amount of time that may be billed or paid for a particular case. In some jurisdictions, those caps can be waived or increased by the court or the program. Likewise, the size of a per-case flat fee may depend on the phase of the case. For example, an attorney representing a child at a termination of parental rights trial may receive more than an attorney representing a child at a different phase of the case.

Each of these models presents its own risks. Particularly in a new program, an hourly-rate system without caps may create uncertainty over costs. Cost concerns, however, can be tempered by establishing financial oversight through an internal bill review or auditing system (managed by the jurisdiction’s own auditor or by an independent auditor). Flat-fee systems, particularly those that rarely or never allow for waivers, create incentives for attorneys to cut corners, especially when compensation rates are unreasonably low.

A contract-based program must consider how attorneys will be assigned cases when that question is not definitively covered by a contract (such as one in which the contractor agrees to accept all conflict-free assignments in a particular location). Absent a rule to require random or rotating assignments (and a commitment by the court to follow the rule), assignment of cases by a court runs the risk that attorneys will be assigned based on court or judicial officer preference. Assignments by the program, however, may require dedicated staff bearing responsibility for making those assignments.

Jurisdictions considering establishing a contract-based program also need to consider whether the program will be a part of the government’s judicial branch or set up as an independent agency.

Wherever it is housed, a contractor-based agency needs an appropriate governance structure that addresses questions such as:

- » Who selects the leader of the program?
- » Is there a board of directors?
- » If so, who determines the membership of the board?

Programs should keep in mind that decisions about where the program is housed and how it is structured may trigger various laws, practices, and expectations relating to government agencies generally, such as open records and public meetings laws, laws relating to collective bargaining, and the provision of representation when malpractice claims are brought against an attorney.

WHO PARTICIPATES?

Under some contract systems, contractors' work and income may come solely through their representation of children. This allows attorneys to specialize and can yield a cadre of skilled attorneys for children. Systems which involve attorneys representing only a small number of clients have their own advantages. Attorneys with experience or ongoing work in other practice areas may bring from those areas expertise, creativity, and a willingness to challenge existing practices and norms in an effort to advance their clients' objectives. In addition, the option of working less than full-time may increase the size of the pool of contractors and lead to greater diversity among the contractors. Using part-time contractors may also make it easier to provide attorneys to children in rural areas or in other situations in which the volume of cases is low.

A contract-based system, however, may leave newer or transitioning attorneys on the sidelines. They may be less inclined to take on the challenging work of representing child clients if they do not have the structure, support, and other benefits that working in a staff office model provides. In addition, meeting program requirements may be challenging for newer attorneys. Programs may require contractors to have child protection litigation experience (or at least experience in litigation generally) before allowing them to represent clients. As a result, attorneys who are new to this area of practice may have no viable path to acquiring the skills and experience necessary to participate in the program. Contract-based programs may want to consider permitting such individuals to work with existing contractors as associates, which would enable them to gain whatever experience the program might require as a prerequisite to participation.

Jurisdictions considering a contractor model may want to assess how much variation of demand there is for children's attorneys. If the number of child neglect and abuse cases is relatively stable from year to year, a contract system allows the program to manage those modest year-to-year variations in demand for representation, as individual attorneys' workloads move up or down. But a contract-based system may face challenges in meeting a sharp increase in demand (as compared to a staff-based model, which, funding permitting, may be able to meet the demand through prompt hiring). Moreover, a lack of predictability in caseload — and hence income — may also keep attorneys without other income or financial support from applying, impairing the organization's ability to recruit and retain a diverse attorney pool reflective of the communities they serve.

COMPENSATION AND COSTS

Rates of compensation for contractors vary widely across the country. In some jurisdictions, rates have long been too low for attorneys to maintain an office, hire support staff, subscribe to legal research programs, and incur other costs that are typically associated with a functioning law office.

Low rates of compensation for contractors also may undercut the benefits of a contractor program and make it difficult for many attorneys to even consider practicing in this area. Programs should provide adequate compensation for the work attorneys must perform to provide competent representation to children and youth.

Obviously, low rates lower a program's cost, which may make policymakers more willing to support it. Additionally, low costs of contractor programs (along with other factors) may make it easier to launch a program to provide representation to children when compared to a staff model. However, in recent years, several jurisdictions have either chosen or been ordered to increase rates of compensation for contract attorneys, and some are trying to protect higher rates by tying them to the rate of inflation. In addition, federal funding available under Title IV-E of the Social Security Act¹ can reduce the net costs that jurisdictions incur in providing representation to children (and to parents), making reasonable compensation rates more achievable and sustainable.

CONTRACTOR SUPPORT

Many contractors are sole practitioners. Consequently, a contract-based program must provide significant levels of support to its contractors to enable them to succeed. This has become even more important in recent years. Courts' unprecedented use of remote hearings has left many contractors isolated from their colleagues.

Programs utilizing contract attorneys should invest time and resources in:

- » Initial and ongoing training
- » Mentoring
- » Promoting and facilitating multidisciplinary representation
- » Facilitating the use of other experts, interpreters, and investigators
- » Attorney wellness

The program may also want to provide guidance to attorneys who are establishing their own law offices for the first time, and it may elect to provide, or require the use of, a particular type of case management software (which can also facilitate consistent data reporting).

Contractors, however, typically are not provided the same level of support that is provided to attorneys working for an institutional provider. Contract attorneys pay self-employment taxes and the costs of health insurance and professional liability coverage and do not receive paid time off or retirement benefits. As a result, contractors may be unable to easily take vacation or days off — which can inhibit employee wellness. Contractors are also currently ineligible for Public Service Loan Forgiveness. The absence of these benefits and protections may lead some contractors to exit the program — making other types of support and an adequate system for compensating attorneys all the more important as a way to facilitate retention. Providing extensive supports for contractors, however, may lead to contractors being treated as employees under state or federal law.² Programs may need to consult with employment law experts to minimize the risk of this occurring.

Quality Control and Quality Improvement

Appropriate quality control and quality improvement systems are essential to the success of contractor models. Quality control systems should include:

¹ 42 U.S.C. §§ 671-679c.

² See generally IRS, *Independent Contractor (Self-Employed) or Employee?*, <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee>.

- » Clear and binding performance expectations for attorneys, whether through a written contract, published performance standards, or both
- » Limits on the number of assignments that the contractor can accept (ideally factoring in other types of work that part-time contractors may be engaged in)
- » A system for regularly assessing the quality of contractors' work
- » A system for investigating complaints regarding contractor performance

Establishing and maintaining performance review and complaint systems can be challenging, given the lack of an employer-employee relationship between the program and the contractor, as well as confidentiality requirements in the Rules of Professional Conduct and local rules. The program must ensure that its review of attorneys' work is not viewed by courts or the state's attorney disciplinary authorities as inconsistent with those rules. If it is able to navigate these challenges, contract-based systems may have an easier time than an institutional provider (particularly one that is unionized) in cutting ties with an underperforming attorney.

Besides posing quality control challenges with individual attorneys, a contract-based system also faces challenges with program-wide efforts to have attorneys use new advocacy strategies or respond to changes in the law or practice. The converse is also true. Contractors often have limited interaction with one another, making it difficult for the program itself to identify issues of common concern that need to be addressed. Training, newsletters and other outreach, and structures to allow for the provision of advice in individual cases may help, but the absence of an employer-employee relationship may limit how the program systematically promotes better advocacy.

CASE COVERAGE

Multidisciplinary, multi-attorney children's law offices are generally able to provide continuity of representation for the office's clients. By contrast, it may be difficult, if not impossible, to consistently achieve continuity of representation in a contract-based program. Contract attorneys are rarely (if ever) required to work with social workers or other advocacy partners, so if an attorney finds a more stable or better paying job, becomes seriously ill or dies, or is unexpectedly required to withdraw from a case, the attorney's clients — many or most of whom have been traumatized by removal and their experiences in the state's or county's custody — will be again called upon to entrust their stories, wishes, and fates to a complete stranger. This problem may be compounded in some jurisdictions or geographic areas by the limited number of contractors available to step in as successor counsel. Contracts may include provisions to address some of these scenarios (for example, by requiring contractors to provide the program ample notice of their intent to withdraw), but there may still end up being situations in which children will not be provided an attorney promptly when a prior attorney has withdrawn or becomes unavailable to continue the representation.

POLICY ADVOCACY

Many organizations that provide attorneys to children are actively involved in policy advocacy in order to improve outcomes for children and youth and to improve court and administrative hearings. Having scores or even hundreds of potential lobbyists (in the form of their contract attorneys), a contract-based program may be able to reach more legislators and generate more support for policy change than a children's law office. But in other ways, policy advocacy may be more difficult to pursue with a contract-based model. First, if there is no uniform method of collecting data regarding contract attorney activity and outcomes in individual contract attorney cases, it may be more difficult to present data to justify the changes being sought. In addition, legislators may be less likely to view

contractors as experts than they would if the lobbyist were from a dedicated children's law office. Finally, the lack of coordinated advocacy among contractors may create confusion and be less effective than a coordinated approach of the type that might be used by a staff-based children's law office.

IV: GETTING STARTED: THE FIRST FEW YEARS

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When starting a new children's law office, it can be easy to get overwhelmed by all the tasks that must be completed. Remember that the office will likely evolve and expand over time. This chapter is designed to help new children's law offices identify the most important areas to address upfront to set the office up for success. Consider reading this guidebook from start to finish, then come back here to help prioritize. Below are some considerations that will help lay the foundation for providing quality legal representation for children.

DON'T REINVENT THE WHEEL

The most important step a new children's law office can take is to identify individuals or organizations who have walked this path before. Contact the National Association of Counsel for Children for help connecting with the network. Although many individuals will likely be willing to provide tips and support, consider seeking funding for a paid mentor to help throughout the startup process.

CREATE THE CULTURE FROM THE BEGINNING

Although the primary goal of the office is likely to improve legal representation of children, the office should think about any other overarching goals. There are numerous benefits to getting clear on what the organization hopes to accomplish from the beginning both from an administrative and substantive perspective. The questions and considerations below may help in thinking through creating the office's culture:

- » What is the primary goal of the office? Mission? Values?
- » How will the office emphasize DEIB in its operations? How will it incorporate youth voice? What workforce wellbeing ideals will be built into the organization?
- » Will the office use a multidisciplinary approach? What team members will be included in the office (e.g., peer advocates, social workers) and what will their roles and expectations be?
- » How will the office measure success? Develop an initial data plan and find a case management system that can grow with the office. Remember that in the early days, the office may only want to track a few key outcomes. Weigh the amount of staff time entering data with the benefits of having it available. Are there external sources of data that could be utilized to track outcomes?
- » Develop a training program. Although the office can build a specialized training program over time, basic training for new lawyers and social workers should be established before they take their first case. Such trainings should help onboard staff with the office's vision and goals. Look for opportunities to partner with other stakeholders in the child protection system to train on critical issues

DEFINE SERVICES AND TARGET POPULATION

The office should go on to consider specifics around service delivery and the target population it plans to serve initially.

- » Is the role of the attorney clear in state statute or rule? Does the office need to create a policy to set basic expectations prior to hiring attorneys?

- » Is the office's goal to represent all of the children in the area or a total number of children? If the goal is to represent 100% of the children, have a plan for how to maintain quality representation if the number of children in the system increases or if resources are lost (by establishing maximum caseloads, for example)
- » What is the target caseload per attorney? When establishing maximum caseloads for attorneys, consider factors like the frequency of hearings, caseloads of other attorneys, geography, and whether attorneys will have support from paralegals, social workers, or other administrative staff. Lowering caseloads can be difficult if funding is appropriated by the legislature or if caseloads are part of a contract, so offices should negotiate for a reasonable caseload at the outset
- » Consider developing a conflict policy based on the state's model of representation, to include sibling representation

BUILD THE FIRST BUDGET

Once the goals for the office and target population are established, the office can build its first budget (or budget request).

- » What positions should be established first and what is the salary range for each? Consider whether it is more difficult to negotiate for additional staff members or salary increases down the road. Is the office better served by initially asking for fewer attorneys at a higher salary? Attempt to gather historical budget information about other agencies or contractors that get funding from the same source
- » Include an adequate supervisory structure in the budget. Will the supervisors carry caseloads? Include time to supervise staff members who are not attorneys, to manage stakeholder engagement, and to conduct systemic work

NEGOTIATE THE CONTRACT (OR LOBBY FOR THE BUDGET)

If the office is operating primarily under a state or local contract, or if the funding comes directly from the legislature, the first negotiation is crucial. The office needs to have a strong basis for the budget it develops and the amount it requests. Here are a few ways to build the office's case:

- » Know the research. Present the most current research on the impacts of representation and elements like caseloads to make the case for funding the office^{1,2}
- » Conduct stakeholder interviews to create a "before" picture on how cases are currently handled, time to permanency, and the status of representation of children (or lack thereof) to create urgency around the new office
- » Collect data from the county and state in which the office will be practicing. How does the jurisdiction compare with the rest of the state with regard to child welfare outcomes generally or the specific goals set for the office? Nationally? These comparisons can also be used to make the case for the office

1 See, e.g., National Association of Counsel for Children. (2021). *NACC Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings*. <https://naccchildlaw.org/standards-of-practice/>.

2 See also, Chapter II.D.9: Caseloads.

ENGAGE WITH STAKEHOLDERS AT THE OUTSET

Children’s law offices should determine individual and organizational partners. Determining the right level of stakeholder involvement can be challenging, but law office leaders should think strategically to develop relationships for the benefit of the office and children served. Consider meeting with judges and other stakeholders prior to making all the decisions about the office. This will help to get their buy-in to the changes the office is hoping to make by improving legal representation. It will also help office leaders determine if there are any expectations that are not consistent with the office’s goals. Other stakeholders to engage include the child protection agency, lived experience experts, service providers, CASA programs, and other attorneys in the system.

MAKE CONTINUOUS IMPROVEMENT PLANS

Regardless of how the office is developed, it will not be able to address every issue and goal from day one. Think about building the infrastructure and have multi-year plans to improve and expand representation. Use the data collected to see where the office is meeting its goals and where it needs to improve. By reviewing the operation of the office annually, law office leaders can continue to evolve and improve legal representation of the children the office serves. 



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CHILDREN'S LAW OFFICE GUIDEBOOK

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