

The Guardian

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COLORADO'S OFFICE OF THE CHILD'S REPRESENTATIVE:

ENGAGING YOUTH EMPOWERING



Colorado Office of the
Child's Representative

YOUTH STATEMENTS ABOUT YOUTH VOICE:

"Youth have a voice.
They have a choice."

Engaging and Empowering Youth in Attorney Practice and as an Organization

by Cara Nord, JD, CWLS; Sheri Danz, JD, CWLS; and Rebecca Garrison

The Colorado Office of the Child's Representative (OCR) is a state agency that selects, trains, oversees, and supports attorney guardians *ad litem* (GALs) who represent the best interests of children in all dependency and neglect (D&N) proceedings, some juvenile delinquency proceedings, and eight other case types. OCR and its Engaging and Empowering Youth Initiative (E&EY Initiative) recently released *Engaging and Empowering Youth: Youth Feedback About their GAL and Court Experiences, as Well as Other Youth Participation Data* (OCR's E&EY Paper),¹ which addresses D&N and juvenile delinquency cases.

This article outlines OCR's commitment to engaging and empowering youth; describes OCR's E&EY Initiative; and summarizes the data, findings, and recommendations from OCR's E&EY Paper. Throughout this article, you can find practical questions for children's attorneys and organizations overseeing children's attorneys.

¹ OCR's E&EY Paper, along with an executive summary and youth summary are at <https://coloradochildrep.org/youth-center/other-stakeholders/>. The information that the report and recommendations are based on was collected before the onset of the COVID-19 pandemic. Most of the recommendations remain applicable even during the pandemic.

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YOUTH STATEMENTS ABOUT YOUTH VOICE:

“Youth opinions matter no matter what.”

“Statements about youth coming from youth are powerful.”

“The more we participate, the more we know how to have a voice.”

“It’s our case. It is about us. If someone can’t say something in front of us, they should not say it at all.”

“They wouldn’t let me in the courtroom to hear my dad talking about what he did to me and my brother. I deserve to know what was going on. I wanted to hear my dad talk about what he did to me and my brother and see if he showed regret and understood what he did. I deserved to get closure.” When another youth responded, “They probably didn’t want to upset you,” the original youth replied, “I’ve already been through it.”

“I was not allowed in a meeting for 30 minutes. It made me wonder what kind of secrets they were telling. They were laughing, with me outside the room.”

OCR’s Commitment to Engaging and Empowering Youth

Youth voice matters. This statement is true for a myriad of reasons. Three are briefly outlined here. First, and as eloquently demonstrated by the youth statements in the sidebar, youth participation benefits youth.² Second, as the ultimate consumer of attorney services and because the quality of attorney services directly impacts the lives of represented youth, youth are the most important source of feedback about their attorneys. Third, youth participation enhances the quality of decisions made on their behalf.

Youth voice is a major component of Colorado’s GAL practice standards, embodied in Colorado Chief Justice Directive (CJD) 04-06.³ In addition to explaining that GALs must diligently represent and protect children’s best interests, CJD 04-06 outlines many GAL requirements related to youth voice, including the following:

- Every GAL’s best interest determination must include developmentally appropriate consultations with children and considerations of children’s positions.⁴
- D&N GALs must state children’s positions during hearings unless children indicate they do not want their GAL to do so.⁵
- D&N GALs must endeavor to maximize children’s involvement in court proceedings, when consistent with children’s best interests.⁶
- D&N GALs should conduct post-hearing follow-ups.⁷
- Subject to limited exceptions,⁸ D&N GALs must meet with children in person as soon as reasonable after their initial appointment and after every change in placement, and delinquency GALs must meet with youth as soon as possible after their initial appointment.⁹
- D&N and delinquency GALs must maintain ongoing communication with children.¹⁰

OCR’s enabling statute, mission, and values ground OCR’s strategic planning, operations, and programs related to youth voice. OCR is a state agency charged with “giving children a voice in the Colorado court system” by providing “uniform, high-quality legal representation and non-legal advocacy to children involved in judicial proceedings.”¹¹ OCR’s mission is to give “children and youth a voice in Colorado legal proceedings through high-quality legal representation that protects and promotes their safety, interests, and rights.”¹² One of OCR’s three core values is *empowerment*, a value indicating OCR appreciates the diverse experiences and

2 Spelling and/or grammatical errors corrected in all youth quotations.

3 CJD 04-06 is at https://www.courts.state.co.us/Courts/Supreme_Court/Directives/04-06%20_Amended%202019%20March%20Attach%20A_%20FEB.%202021%20WEB.pdf.

4 CJD 04-06.V.B.

5 CJD 04-06.V.D.1.

6 Commentary to CJD 04-06.V.D.1.

7 *Id.*

8 CJD 04-06 waives the in-person requirement when delinquency GALs already established a meaningful relationship with the juvenile in an existing court appointment. Commentary to CJD 04-06.V.E.1. The CJD also waives the in-person requirement for D&N and delinquency GALs when children reside more than 100 miles outside a judicial district. CJD 04-06.V.G. However, even then, GALs must personally interview children as developmentally appropriate. *Id.* Although such interviews may be via electronic or other means of communication, GALs must endeavor to see such children in placement and OCR pays reasonable costs consistent with OCR billing policies and procedures. *Id.*

9 CJD 04-06.V.D.4.a. and CJD 04-06.V.E.1.

10 C.J.D. 04-06.V.D.5.b. and CJD 04-06.V.E.4.f.

11 C.R.S. 13-91-102(1)(a) and 13-91-104(1) (2020).

12 OCR’s mission is at <https://coloradochildrep.org/about-ocr/>.

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QUESTIONS FOR CHILDREN’S ATTORNEYS AND ORGANIZATIONS OVERSEEING CHILDREN’S ATTORNEYS:

What are your personal and/or organizational mandates, philosophies, goals, metrics, and strategies related to youth voice?

Where are your mandates, philosophies, goals, metrics, and strategies documented?

Who is responsible for managing or championing your mandates, philosophies, goals, metrics, and strategies?

Do you or does your organization report to anyone about your progress and/or opportunities for growth related to your mandates, goals, metrics, and strategies?

What data would you and/or your organization like to collect related to youth feedback and participation?

expertise of the children OCR serves and OCR supports others in its mission to empower children.¹³ For several years, OCR set “providing children a voice in legal systems through effective attorney services and advocacy” as OCR’s top performance goal in documents submitted pursuant to Colorado State Measurement for Accountable, Responsible and Transparent (“SMART”) Government Act.¹⁴ OCR’s strategies for accomplishing this goal include ensuring children’s voice and interests are paramount throughout proceedings and in the development of policy, law, and practice.¹⁵

OCR’s E&EY Initiative

OCR launched an E&EY Initiative to achieve its youth-centered goals and implement its youth-centered strategies. OCR’s E&EY Initiative builds on a decade of research and work aimed at increasing youth participation and incorporating youth voice in OCR’s programming, policies, and GAL oversight. The first action step of OCR’s E&EY Initiative is supporting GALs’ application of the youth-centered requirements of CJD 04-06. The second action step is collecting randomized feedback from youth with D&N and delinquency cases and using such feedback in the development of law, policy, and practice.

OCR’s Engaging and Empowering Youth Data

OCR’s E&EY Paper (released in November 2020) analyzes four types of data collected between mid-2018 and mid-2020:

1. Youth feedback from two surveys completed by 300 youth over two years. OCR created surveys to collect youth feedback about their GAL and court experiences. While Survey 1 had many open-ended questions, Survey 2 had mostly close-ended questions in response to youth feedback that Survey 1 was too long and “felt like homework.”¹⁶
2. Feedback from 93 youth during 12 youth focus groups. OCR’s goal for focus groups was to collect youth feedback about broader policy issues.
3. Structured court observations, specifically whether (a) the youth was present, (b) the youth was given an opportunity to address the court, (c) the GAL stated the youth’s position(s), and (d) the GAL addressed the GAL’s efforts to promote youth attendance.
4. Case management and billing data related to youth court attendance.

Some OCR Findings

Youth value contact and communication with their GAL. Focus group youth identified youth contact as one of GALs’ primary responsibilities.¹⁷ In Survey 2, youth expressed a strong preference for in-person GAL contact, followed by telephone GAL contact.¹⁸ In Survey 1, youth reported that they discussed a variety of topics with their GAL, including their parents,

¹³ OCR’s values are at <https://coloradochildrep.org/about-ocr/>.

¹⁴ Colorado’s (“SMART”) Government Act requires OCR to prepare and publish a Performance Management System and an annual Performance Plan outlining the processes and metrics OCR uses to monitor its performance in fulfilling OCR’s statutory mandate. C.R.S. 2-7-200.1 et seq. (2020). OCR’s most recent Performance Management System and Performance Plan are at <https://coloradochildrep.org/about-ocr/general-assembly-information/>.

¹⁵ <https://coloradochildrep.org/about-ocr/general-assembly-information/>.

¹⁶ OCR’s current youth survey is at <https://fs30.formsite.com/COCR/YouthSurvey/index.html>. OCR continues to modify the survey based on youth feedback and researcher input.

¹⁷ E&EY Paper at 11.

¹⁸ *Id.*

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QUESTIONS FOR CHILDREN'S ATTORNEYS AND ORGANIZATIONS OVERSEEING CHILDREN'S ATTORNEYS:

What are your personal and/or organizational goals in collecting such data?

What do the youth want in terms of attorney contact and communication? What frequency and types of contact do they prefer? What topics of conversation are important to them?

Do youth indicate that they trust you and/or the attorneys overseen by your organization? Why/why not?

What standards would you and/or your organization like to establish related to the above questions?

Do youth regularly attend court? Do youth want to attend court; why or why not? What can be done to address the reasons youth do not want to attend court? Do you and/or the attorneys overseen by your organization ask youth if they want to attend court, as well as discuss their right to attend court, what will happen in court, and what happened in court? How frequently do these discussions occur?

current residence, desired residence, future plans, school, siblings, and contact with their parents.¹⁹ In Survey 2, youth identified a wide range of topics as important to discuss, including the people important to them, their future, where they were living or wanted to live, and their education.²⁰

Youth want frequent GAL contact. In Survey 2, 51% of youth with D&N cases and 76% of youth with delinquency cases reported having at least monthly contact with their GAL.²¹ In focus groups and in response to open-ended survey questions, youth wanted more GAL contact.²² In Survey 2, 81% of youth with D&N cases and 70% of youth with delinquency cases reported their GAL visited them in each placement.²³ In Surveys 1 and 2 combined, 72% of youth indicated their GAL always or usually responded when they reached out.²⁴ While youth in six focus groups expressed concern about GALs not answering telephones and/or returning telephone calls, other focus group youth expressed appreciation for their GAL's availability.²⁵

Most surveyed youth reported that they trust their GAL and believe their GAL knows what is best for them. In Survey 2, 64% of youth reported their GAL knew what was best for them.²⁶ In Survey 2, 73% of youth reported they always or usually trusted their GAL.²⁷ Perhaps most interestingly, in that same survey, youth who reported having contact with their GAL more than once a month were overwhelmingly more likely to indicate they trusted their GAL (97% of youth who reported such contact indicated they always or usually trusted their GAL) and that their GAL knew what was best for them (94% of youth who reported such contact indicated their GAL always or usually knew what was best for them).²⁸

Low rates of youth attendance permeate all D&N hearings. OCR's Youth in Court Report indicated less than 12% attendance for all hearing types other than Adoption and Benchmark Hearings, and only 30% of youth aged 12 and older attended their Permanency and Benchmark Hearings despite laws and protocols promoting youth attendance at such hearings.²⁹ Only 15% of children aged five and older attended hearings during OCR court observations.³⁰

GALs and courts can take measures to engage and empower youth in court. In Survey 2, 61% of youth with D&N cases and 68% of youth with delinquency cases reported they always or usually wanted to attend court.³¹ During focus groups, youth reasons for wanting to attend court surrounded themes of obtaining information, ownership, self-advocacy, and responsibility.³² In Survey 2, 63% of youth with D&N cases reported their GALs always or usually asked if they wanted to attend court, while less than half of youth with D&N cases who did not

¹⁹ *Id.* at 12.

²⁰ *Id.* at 12-13.

²¹ *Id.* at 15.

²² *Id.* at 16.

²³ *Id.* at 15-16.

²⁴ *Id.* at 13.

²⁵ *Id.* at 14.

²⁶ *Id.* at 17.

²⁷ *Id.* at 19.

²⁸ *Id.* at 18 and 19.

²⁹ *Id.* at 32-33.

³⁰ *Id.* at 31-32.

³¹ *Id.* at 28.

³² *Id.*

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QUESTIONS FOR CHILDREN’S ATTORNEYS AND ORGANIZATIONS OVERSEEING CHILDREN’S ATTORNEYS:

What format would be best for collecting such data? Examples include youth surveys, youth focus groups, youth court attendance data, and/or court observation data related to youth court participation.

always want to attend court indicated their GAL asked them why they did not want to attend court.³³ In that same survey, over 70% of youth indicated their GAL always or usually talked to them about their right to attend court,³⁴ and 71% of youth with D&N cases indicated their GAL always or usually talked with them about what would happen in court.³⁵ Finally, in Survey 2, 68% of youth with D&N cases indicated their GAL asked them what they wanted the judge to know.³⁶ During OCR court observations, GALs stated the position of 61% of children age 5 or over and addressed the efforts they made to promote youth court attendance for 12% of such children.³⁷ Focus group youth identified the following ideas for improving court: increased communication with youth, closing courtrooms, having food, and having therapy dogs.³⁸

33 *Id.* at 24.

34 *Id.*

35 *Id.* at 23.

36 *Id.* at 25.

37 *Id.* at 25 and 35.

38 *Id.* at 30.



Colorado Office of the Child’s Representative

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As an OCR Staff Attorney, **Cara Nord** supports OCR contract attorneys and champions OCR’s E&EY Initiative, Litigation Toolkit, and quarterly newsletters. Before joining OCR in 2017, Cara spent over ten years litigating child welfare cases and appeals as an Assistant Attorney General in Washington State and as an Assistant/Senior Assistant County Attorney in Colorado.



As OCR’s Deputy Director, **Sheri Dang** assists in managing the agency’s day to day operations and coordinates OCR’s programming and initiatives. Before joining OCR, Sheri represented children/youth in child welfare and other civil matters at the Legal Assistance Foundation of Metropolitan Chicago; delinquency proceedings at the Colorado State Public Defender’s Office; and public benefits, child welfare, and protective order proceedings as a legal intern at the Door’s Legal Services Program.



Rebecca Garrison develops software and information systems for OCR with a primary focus on the “CARES” billing and case management application and OCR’s attorney evaluation data. Rebecca began her career as a mediator, restorative justice facilitator, and motivational interviewing coach. She discovered a knack for data modeling and coding while attempting to streamline non-profit caseload administration and grant-writing.

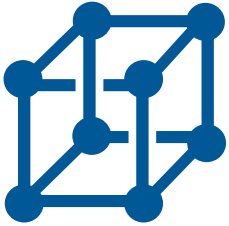
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Some OCR Recommendations and Strategies

OCR is currently implementing many of the following goals and strategies to continue to maximize youth voice and to advance its E&EY Initiative.

| | | |
|--|---|--|
| <p>OCR should set ambitious yet realistic performance goals for youth court attendance, participation, and satisfaction.</p> | } | <ul style="list-style-type: none"> ✓ Establish incremental goals to increase rates of attendance, participation, and satisfaction in OCR’s Performance Plan. ✓ Engage with youth, GALs, and other stakeholders to discuss the findings of OCR’s E&EY Initiative and strategies for giving youth a voice in proceedings. ✓ Share district-specific information related to youth court attendance, participation, and feedback and support judicial districts in setting and achieving goals. ✓ Continue to create and disseminate tools supporting youth engagement and empowerment. ✓ Build upon youth-centered GAL trainings and tools. |
| <p>OCR should incorporate youth feedback and voice into its policies and programs.</p> | } | <ul style="list-style-type: none"> ✓ Consider recommending changes to CJD 04-06’s youth contact requirement to further emphasize the importance of youth engagement in court and GAL contact with youth. ✓ Ensure youth contact and engagement requirements remain grounded in the individualized needs of youth and are informed by youth preferences. ✓ Engage with a professional researcher to inform ongoing data collection and analysis. ✓ Establish a Youth Action Council with a clear, transparent, and trauma-informed vision for how the council will inform OCR’s policies and programs. Consistent with Positive Youth Development principles, empower council members and support professional development opportunities. |
| <p>OCR should consider strategies for incorporating youth survey information into its GAL oversight.</p> | } | <ul style="list-style-type: none"> ✓ Explore the possibility of running reports summarizing youth surveys by GAL name and share this summary with GALs during OCR’s annual verifications processes. ✓ Support self-reflection by GALs and consider benchmarks for OCR follow-up. ✓ Identify opportunities for increasing youth survey response rates, such as conducting surveys when appointments end. |
| <p>OCR should continue to collect youth feedback and should continue to dedicate staff time to its E&EY Initiative.</p> | } | <ul style="list-style-type: none"> ✓ Continue and expand the collaboration and outreach central to OCR’s E&EY Initiative. ✓ Consider enhancements to survey instrument to maximize youth voice and participation, while balancing the value of consistent data sources over time. ✓ Optimize youth events by clarifying the purpose, goals, and processes for OCR’s direct face-to-face engagement of youth. ✓ Engage with professional researchers to ground OCR’s data collection and analysis in best practices. ✓ Continue to invest staff time and expertise to OCR’s E&EY Initiative. ✓ Ensure the expertise and experience of youth informs OCR’s survey and youth event strategies. |

OCR’s ultimate vision is “justice, opportunity, and healthy families for all court-involved children and youth.” OCR believes that youth voice and youth empowerment are critical to realizing this vision. OCR has gained a wealth of knowledge through its E&EY Initiative and encourages all children’s attorneys and organizations overseeing children’s attorneys to promote and incorporate youth voice into their practice and policies. ■



YOUTH PERSPECTIVE

The Path Away from — and Back to — My Siblings: Discovering the Power of Family Identity and Sibling Relationships

by Aleks Talsky

Have you ever considered the role your siblings play throughout your life? No relationship in your lifetime will compare to the bond you form with a brother or sister. As you grow and define who you are and what you believe in, your sibling is one of the few people to support you in your journey from adolescence to adulthood — the one person who understands where you came from and where you are going. Your sibling is the first person to show you how to kick a soccer ball, and someone you can trust to keep secrets from Mom and Dad. A sibling is a big brother or sister who protects you from bullies at school and teaches you how to stay out of trouble. A sibling is a shoulder to cry on after your first breakup. A sibling is your biggest enemy and your best friend — someone you can argue with for hours but still rely on if you need help. Sibling bonds are friendships that last a lifetime. Imagine losing that friendship at a young age not because of anything you did, but because you enter foster care. When your life is turned upside down you not only lose your toys, belongings, home, school, and friends, but you also lose one of the most crucial relationships in your life.

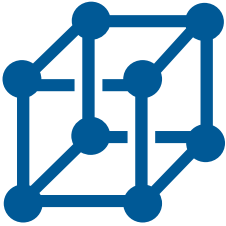
I am sharing my story to emphasize the importance of maintaining sibling relationships for all children who enter the foster care system. I spent a total of eleven years in the Milwaukee County foster care system. Child Protective Services took me out of the home of my parents, who suffered from drug addiction, when I was only eight years old. When I was placed in my first foster home, a tumultuous period followed where I became isolated from my nine siblings and suffered significant instability. I was later placed with my grandmother. Living with my grandmother provided me with some

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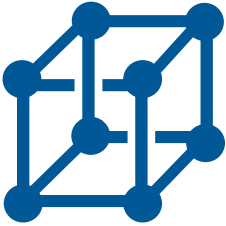
balance and security, but placement with family comes with a different set of unexpected problems.

The way my siblings and I maintained relationships with one another varied significantly from home to home based on our placements. I was fortunate enough to maintain a relationship with many of my siblings because my grandma fostered and supported all my sibling relationships without bias. On the other hand, unfortunately, many of my siblings, who were either adopted or placed with family, were not provided with the same flexibility and support. For example, many of my siblings' parents prevented them from having a relationship with my oldest sister because of her "risky" behavior. When my sister ran away from foster homes, her actions were viewed as "risky", rather than understood for what they truly were: a call for help. My sister's efforts to reunite our family and provide support for each of her siblings were viewed as a threat to our safety. There was so much focus on my sister's negative behavior, and never any consideration for her positive behavior. Not one person took the time to acknowledge the behavior that defined who she truly was: her dedication and hard work ethic inside the classroom and at work.

Preventing my siblings from having a relationship was unfair to both my siblings and older sister. The so-called "risky" behavior of my oldest sister was a normal part of growing up for all teenagers. Even if she did have what some may call "risky" behavior, it could be attributed to trauma she experienced and her unstable placement history. She was placed in group homes and lacked a sense of belonging, parental figures, and support in general. Before we were taken away, my sister was the mom of the house, the only one taking care of me and all my siblings. Our relationship with her was an important part of her identity and life. It was not fair to take that relationship away from her. She was only a child and did not deserve to be punished for things that were outside of her control. My sister strived to develop a relationship with her siblings despite the challenges that were created by adults who were supposed to support her.

The lack of effort by our placements to maintain relationships with our siblings has significant impacts on each of our lives. Many of my siblings, including myself, are at an age where we can decide what relationships to maintain and who our family is. Reconnecting with and strengthening my relationships with family has always been an important part of finding my identity and sense of belonging. However, this power comes with a different set of unexpected challenges. Family events can often be stressful as we struggle with how to treat one another. It is difficult to have healthy relationships because we did not have the opportunity to learn how to do this when we were younger. As a result, I am forced to set boundaries and distance myself from my

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siblings so I can focus on caring for myself. I suffer from individual and shared pain of guilt as I pursue my own life because many of my siblings are unable to do the same. I've endured firsthand the barriers that young people in and aging out of foster care face.

As the child welfare system modernizes to meet the needs of children and families, we must ensure siblings' relationships are supported and fostered. Sibling relationships are an essential part of a young person's identity and connection to their family. Foster care is a traumatic experience, and a sibling is one of the few people who understands what you have been through and what you are dealing with. All children have a right to a relationship with their siblings and should not be prevented from having one because they are in foster care. I urge attorneys to foster and support siblings' relationships by following the recommendations below:

1. Advocating to place sibling groups in the same home;
2. Ensuring foster or adoptive parents and guardians are supporting children and young people to maintain relationships with siblings, if sibling groups cannot be placed in same home;
3. Removing the bias of what "risky behavior" is by:
 - a. Normalizing teenage behavior;
 - b. Understanding that if even if the behavior is risky, there are probably reasons for that, and those reasons need to be addressed instead of putting more potential negative impacts in place; and
 - c. Never restricting sibling visitation as a consequence; and
4. Removing the bias that siblings aren't good for each other.

As you embark on the next milestone in your life, whether it is starting a new job, going back to school, getting married, buying a home, or starting a family, think about who you need to be there as you make life-changing choices and define your goals, values, and personal beliefs. As I embark on these next steps in my life, I will make choices that are defined by who I am and where I came from. I am confident my siblings will play an important role in supporting me in these life decision as they are some of a few people who truly understand what I have been through and what I want in life. ■



EXECUTIVE DIRECTOR'S MESSAGE

One Year Later: Implementing New Perspectives and Strategies

by Kim Dvorchak, JD

It sounds so cliché (it's difficult not to). Here we are, one year after the first pandemic shut-down and the murders of Ahmaud Arbery and Breonna Taylor. Here we are, continuing to propel ourselves toward the non-pandemic future — perhaps in quiet isolation, or a cacophonous household, or something in between. Here we are, striving to serve our families, our clients, and demand justice in our communities: in remote zoom calls, socially distanced meetings, protest marches, and virtual or in-person courthouses. Did I mention making time for self-care?

This month will and should be marked by reflection. What lessons have we learned? What temporary measures will we soon stop? What new perspectives and practices will serve as lasting anchors in our work? What challenges remain for children and families and how will we build back better to address them? It's a tall order, but sometimes moving forward necessitates spending some time looking back. Then, it requires intentional action.

As part of NACC's commitment to advancing racial equity, our staff and Board have been examining white supremacy culture and racial disparities within our organization utilizing the training and tools developed by [Race Matters Institute](#). One of the first programs we looked at was our member webinar series and the lack of diversity in our presenters (a concern expressed in member and conference surveys). Several factors may drive this problem: a lack of diversity in NACC partnerships, staff, members, and the child welfare profession; biased and subjective decision-making in selecting presenters; and a lack of intentionality in authentically reaching out to and engaging presenters of color and those with lived experience in the child welfare system.

To reduce disparities, create a transparent process, and be explicit about our values, NACC developed a Webinar Submission Form. The form is accessible on [NACC's website](#) and requires a description of how the webinar will address or impact racial equity, disparity, or underserved populations; and how the voices and recommendations of individuals with lived expertise will inform or be integrated into the webinar. NACC included consistent requirements in our Call for Conference Abstracts as well.

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This is just one step in a very long journey we are beginning, taking the time to pause, reflect, and act to ensure that racial equity is mission-critical across all of NACC's programs. NACC will continue to train and educate ourselves, update our communications and hiring practices to reach and support diverse audiences, including a wider range of perspectives in planning and decision-making, and incorporating racial equity in the training and services we provide members, such as upcoming webinars.

We hope you will join us in this journey because there can be no children's justice without racial justice. Black Lives Matter.

We are NACC. Together we are Promoting Excellence, Building Community, and Advancing Justice. ■



Thank You for Your Support!

Donate to NACC's General Fund online by making a one-time contribution or sign up for a monthly recurring donation of \$10 or more. Donations to NACC's General Fund provide maximum flexibility for NACC to put your contributions to work right away to accelerate access to justice for children and families.

Donate online: [NACC General Fund](#)



The Value of Harms Avoided

by Hailly Korman, JD

Several years ago, a juvenile justice leader remarked to me that he understood why it was so hard to get legislative attention for the young people he worked with: there were so few of them relative to the population of the state. And yet, he pointed out: “Each one of these kids is a million-dollar kid.”

Our society pours resources into a small number of youth at tremendous expense, but nevertheless fails them at staggering rates. The cost of the status quo — changing nothing and doing nothing differently — is massive. And worse, it doesn’t work. These expenses are not

investments in any sense of the word; they are just costs. There is no return on a jail cell or an emergency room bed.

Advocates for racial justice call for divestment from police departments and the reinvestment of those resources to community services.¹ However, this question of short-term costs (what we pay to

solve immediate problems) vs. long-term investments (what we pay to prevent those problems in the future) is not one that is unique to 2020 or to policing.

As these systems are constructed today, people who experience disruptions to their life trajectory — placement in foster care, incarceration, experience with homelessness, or another life event — are statistically likely to increase their reliance on public services over a lifetime.² But that is not an immutable fact of nature. We could invert that pattern through smart investments up front, as well as by creating space in budgets for other community investments in safety, health, and well-being. Right now, we all are vulnerable to the logical fallacy that the status quo costs nothing and that new investments are in addition to, rather than in place of, current spending.

1 Movement for Black Lives. “The Time Has Come to Defund the Police.” Available at: <https://m4bl.org/defund-the-police/>.

2 See e.g., Kelly Robson, Hailly T. N. Korman, and Rebecca Daulton, Bellwether Education Partners. “The Value of Harms Avoided: Calculating the Cost of a Fragmented System of Social Services,” p. 1. (2021) Available at <https://bellwethereducation.org/publication/value-harms-avoided-calculating-cost-fragmented-system-social-services>.



...this question of short-term costs vs. long-term investments is not one that is unique to 2020 or to policing.



ABOUT THE AUTHOR:

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A commonly cited statistic on this point is that it costs anywhere from four to six times as much to put someone in prison for a year than to provide a year of education.³ But what are the other costs — and savings — from more coherent services across providers and public agencies?

Along with two colleagues, I built a financial model to find out. We call this the “long-term cost capture” of decreasing fragmentation across agencies and service providers. It turns out that the juvenile justice leader’s estimate above was close: the excess cost of the status quo, the amount spent on additional services when the first intervention does not work, runs more than \$600,000.00 per person over a lifetime.⁴ That adds up to more than \$1.7 trillion over a lifetime for the cohort of people who are currently being served by any one of our public systems.⁵

The majority of the dollar cost of the status quo is driven by the compounding nature of adversity and the fragmentation across those public agencies and community-based programs that provide prevention and intervention services. Political resistance and short-sightedness are why it’s so hard to fix.

Research tells us that the first disruptive life event is often followed quickly by the next in complex cascading relationships. For example, young people in foster care are more likely to experience early, unplanned, or unwanted pregnancies. And young people who become early parents are less likely to graduate from high school. Without a high school diploma, a young person’s wages and job options over their lifetime are depressed.⁶ For all of the services, programs, and supports that are laid over this youth (or family) in a crisis patchwork, providers are almost never communicating with one another, much less working in collaboration with each other, leading to duplicated efforts, gaps in services, and persistently unmet needs.⁷



No financial model or budget design can overcome the perceived “wrong pocket” problem that can create political reluctance.

No financial model or budget design can overcome the perceived “wrong pocket” problem that can create political reluctance. That phenomenon is exactly what it sounds like: the agency spending the money on an intervention is often not the same agency that benefits from the lower costs of interventions.

For example, a school district that provides universal high-quality preschool will not see decreased costs in the year or two or five after they make the investment. Instead, the district may only see the benefit of those costs over the long-term as students advance through school and eventually become parents themselves. But limiting the spending of public agencies to just those activities with impacts that they can show on their own balance sheets, measured by their own limited tools, within electoral terms, serves to further entrench the very fragmentation that leads to poor outcomes.

³ CNN Money. “Education vs prison costs.” Available at: <https://money.cnn.com/infographic/economy/education-vs-prison-costs/>.

⁴ See, *supra*, footnote 2, at p. 2.

⁵ *Id.* at p. 6.

⁶ *Id.* at pp. 3-4.

⁷ Kelly Robson and Hailly T. N. Korman, Bellwether Education Partners. “Continuity Counts: Coordinated Education Systems for Students in Transition.” Available at <https://bellwethereducation.org/publication/continuity-counts-coordinated-education-systems-students-transition>.

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In addition, while the direct costs of delivering services matter, there are also substantial indirect and lifelong costs for the way we do things now. In our model, we found that the largest of these is lost wages from under- or unemployment and the resulting lost tax revenue that would be otherwise gathered.⁸ The consequence here is twofold: first, under- and unemployment interferes with individuals' ability to live secure and stable lives. It also decreases the public dollars available to improve communities as a whole.



What if the first disruption — for example, that placement in foster care — didn't lead to the second, third, and fourth?

Our model asks, “What if the first disruption — for example, that placement in foster care — didn't lead to the second, third, and fourth: the pregnancy, the missed education opportunity, and underemployment? What if the first intervention was enough to get a young person back on track?”

To be clear, this money isn't saved in any conventional understanding of that word. We will still spend on services, but we can spend in ways that show returns on our investments, that allow people to live better, more enjoyable lives and ultimately position them to better support their own children to thrive.

Improved investments could include support for direct services like more education spending, adding clinicians and case workers to social service agencies stretched thin, direct cash transfers, and supportive jobs programs. They could also include long-term investments in affordable housing, lead abatement, and transportation infrastructure.

The important thing to remember is that we are spending this money already. Spending \$600,000 per person does not include one single new dollar. But we can spend money in ways that actually yield outcomes that are productive both for individuals and for communities as a whole. Smarter investments can lead to lower recidivism rates, less reliance on social services, higher employment, higher educational attainment, more entrepreneurs, a deeper tax base, and all of the intangible goods that are felt in healthy, supported communities. ■

⁸ See, *supra*, footnote 2, at p. 5.



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During this pandemic, NACC is collecting and sharing resources to keep our community informed and prepared to safeguard the rights and well-being of young people.





The Appellate Process and Unacceptable Delays

by Judge Leonard Edwards (ret.)

The length of time necessary to reach a decision in the appellate process is inconsistent with the needs of a child. Simply put, it takes too long. Removal from parental care is traumatic.¹ That trauma is exacerbated by lengthy and cumbersome juvenile court proceedings, and, in particular, the appellate process.² The law is clear that children need timely permanency, and the law is also clear that all participants in the child welfare process must take steps to accomplish that goal.³ But the legal system for processing cases is slow and deliberate, and nowhere is it slower than in the appellate process. The child's sense of time and need for timely permanency is best expressed by the authors of *Beyond the Best Interests of the Child* who write:

...we take the view that the law must make the child's needs paramount. This preference reflects more than our professional commitment. It is in society's best interests.

Three months may not be a long time for an adult decisionmaker. For a young child it may be forever. The "... maximum intervals beyond which it would be unreasonable to presume that a child's residual ties with his absent parents are more significant than those that have developed between him and his longtime caretakers [are]: (a) 12 months for a child up to the age of 3 years at the time of placement; (b) 24 months for a child from the age of 3 years at the time of placement."⁴

As a matter of normal procedure, a child's placement must be treated by legislatures, courts, and administrative agencies as a matter of urgency that comports with a child's sense of time.⁵

- 1 See Krebs, C., "Trauma Caused by Separation of Children from Parents," American Bar Association, 2019. Available at https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/child-separation-memo/parent-child-separation-trauma-memo.pdf. On the need for children to have a resolution of their placement in a timely fashion, see Gol Goldstein, J., Freud, A., & Solnit, A. *Beyond the Best Interests of the Child*, The Free Press, N.Y. 1973.
- 2 On the delays in the juvenile court process see Edwards, L., "Achieving Timely Permanency in Child Protection Courts: The Importance of Frontloading the Court Process," Spring 2007, *Juvenile and Family Court Journal*, Vol. 58, No. 2. Available at https://www.supremecourt.ohio.gov/JCS/disputeResolution/resources/publications/Spring07_Edwards.pdf.
- 3 See the Adoption and Safe Families Act, Public Law 105-80, Sections 101-103.
- 4 Goldstein, *supra* note 1 at pp. 7-8, 98, 24, 22, 40-43 (cited in *In re Micah S.*, 198 Cal. App. 3d 557, 567, 243 Cal. Reporter 756, 762, 1988 Cal. App. LEXIS 92, 19 (Justice Brauer, concurring)).
- 5 Goldstein, *supra* note 1 at p. 43.



ABOUT THE AUTHOR:

Judge Edwards is a retired judge from Santa Clara County, California, where he served for 26 years, primarily in the juvenile court. He now works as a consultant. His writings can be seen on his website: judgeleonardedwards.com.

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Reviewing hundreds of cases arising from the juvenile dependency court reveals that from the date of removal until the resolution of an appeal often takes years, and those years are a substantial period in the life of a child.⁶ During that time, a child's life is on hold – waiting for the adults to decide where he or she will live on a permanent basis. A case can be made that such a lengthy appellate process violates not only child development goals, but also the third mandate in the federal law regarding reasonable efforts – promptly finalizing an alternative permanency plan.⁷ In appellate proceedings, however, the fault is not with the child welfare agency; it is with the court system and specifically with the appellate court process.

There must be the possibility of an appeal from orders and findings made by a trial court. The termination of parental rights finding made by a juvenile court judge deserves particularly close attention. Terminating the parent-child relationship is the most serious state intrusion into family life, but to put an appeal of that decision into the mix with other types of cases, civil and criminal, guarantees that the child will have a particularly long time to wait for the appellate process to reach a result.

Reaching a final decision by an appellate court involves many people and legal procedures. It takes time in the appellate process to create the clerk's and reporter's transcripts for an appeal. It takes additional time for the attorneys to file briefs in support of their positions. Then there are oral arguments before the appellate court and often the substantial time it takes the appellate court to prepare and issue its decision. There is also the right of the parties to ask for reconsideration of the appellate court's decision. Thereafter, the law permits the parties to ask for a higher appellate court to consider the appellate court opinion. Throughout the appellate process the child must wait, not knowing where his or her permanent home will be.

The appellate caselaw offers many examples of the delays the process can take. In the case of *People in the Interest of A.A.*, 2020 COA 154, the two children, 5 and 7 years of age, were removed from parental care in June 2017. Visitation was suspended because of the mother's substance abuse and the father's behavior during visitation, and the parents' rights were terminated 18 months later. The Colorado Court of Appeals reversed the termination of parental rights finding in November 2020 and sent the case back to the trial court for further proceedings. During the time before the appellate decision, the children (now 9 and 12) had only a few visits with their parents. In another case, *In re Thomas D.*, 2004 ME 104, the four children were removed from parental care in January 2002. Legal proceedings in the juvenile court resulted in a termination of parental rights in September 2003. In August 2004, the Maine Supreme Judicial Court reversed and remanded the termination of parental rights decision because the parents had been denied a case plan to help them to rehabilitate and regain custody. In a third case, *In re Natalya C.*, 946 A.2d 198 (R.I. 2008), the child was removed from her mother's care in September 2004, and the mother's parental rights were terminated in

⁶ See Edwards, L., "Reasonable Efforts: A Judicial Perspective" Appendix A, for a review of many appellate decisions from termination of parental rights cases. This book can be found and downloaded or reviewed at no cost at judgeleonardedwards.com.

⁷ 42 U.S.C. §§672 (a)(2)(A)(ii), 673(b), & 675; 45 CFR 1356.21(b)(2) (2006).

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May 2006. In April 2008, the Rhode Island Supreme Court reversed the termination and sent the case back to the trial court for further proceedings.

There must be a better way. The California Judicial Council recognized the impact of delay upon children and concluded that they would put juvenile dependency court appeals on a fast track. They now review and decide these cases on an expedited process with written opinions filed in approximately 120 days from receipt of a writ.⁸ They attempt to produce their opinion before the next hearing in the trial court.

To accomplish this goal, they have made a number of modifications in the appellate process, starting with the adoption of California Rules of Court, Rule 8.450. The rule is remarkable in its detail, encompassing every member of the court system to complete his or her task within a well-defined time scheme. First, the rule requires that any appellate action be accomplished by extraordinary writ. The reviewing court (the appellate court) will dismiss any appeals in favor of the writ process.⁹ Second, the rule instructs the superior court (trial court) not to extend any time period. The reviewing court, however, may extend any time period, “but must require an exceptional showing of good cause.”¹⁰ Third, the party seeking writ review must file in the superior court a notice of intent and a request for the record. The notice must include all known dates of the hearing that resulted in the order under review. The notice must be authorized by the party intending to file the petition and must be signed by that party or by the attorney of record for that party.¹¹

The rule of court outlines how soon the notice of intent must be filed after the court order setting a hearing to finalize the permanent plan for the child. In California, this means that when the juvenile court orders the end of reunification services and sets the date of a hearing pursuant to Welfare and Institutions Code section 366.26, the notice of intent must be filed within seven days unless the party is out of state or out of the country, in which case the time to file is extended.¹²

After the notice of intent is filed, the superior court clerk must send a copy of that notice to the attorneys of record, the parties (including any child 10 years of age or older), and a list of others. When the transcripts are certified as correct, the superior court clerk must send the original transcripts to the reviewing court, the attorneys, and any unrepresented party by any means “as fast as United States Postal Service express mail.”¹³

When the notice of intent reaches the reviewing court clerk, that person must lodge the notice. As of that time, the reviewing court has jurisdiction of the writ proceedings. When the

8 California Rules of Court, Rule 8.450 (b).

9 *Id.*

10 *Id.* at subsection (d).

11 *Id.* at subsection (e).

12 *Id.* at subsection (g).

13 *Id.* at subsection (i).

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record is filed in the reviewing court, the clerk must immediately notify the parties, stating the date on which the 10-day period for filing the writ petition will expire.¹⁴

While this rule of court addresses the important needs of children in juvenile dependency cases, it would make sense to include other court proceedings involving children, including family court custody disputes and probate matters involving young children.

California is not alone in making changes in the appellate process. The Colorado Chief Justice has created a workgroup to address delays in the appellate process for cases involving relinquishment, adoption, and dependency and neglect so that decisions are resolved within six months after being filed. Recommended changes would be to Section 19-1-109(3), C.R.S. (2017) of the Colorado statutes.

It is possible that still further modifications of the appellate process would reduce delays. Perhaps the local trial court could create a special appellate division within the local trial court to promptly hear dependency appeals. Or the state judiciary could create a statewide appellate dependency court with directions to appoint only trial judges with dependency experience supported by clerks and research attorneys that have special training. That appellate court would develop procedures and timelines to reflect the urgency of these cases. Yet the most straightforward approach would be for the appellate court to prioritize the handling of cases involving children so that they are heard ahead of any other type of case.

Other states may have a different approach to delays in the resolution of a child's case in the appellate courts. It is a goal that deserves the attention of appellate courts throughout the country. Changes in appellate procedures would be an acknowledgment that children need a timely resolution of their cases. Delay only increases the trauma they have been experiencing since their removal from parental care. ■

¹⁴ *Id.* at subsection (j).



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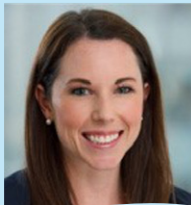
Building a Multidisciplinary Advocacy Office from the Ground Up:

The Founding and Development of Foster Care Advocacy Center in Houston, Texas

The multidisciplinary law office approach to representing youth and families in dependency cases continues to prove an efficient and effective model for holistic, person-centered advocacy. Assessing and addressing clients' complex and intersecting needs can be coordinated and streamlined in this way, often leading to better outcomes. But what is like to build a practice like this from the ground up? NACC asked Tara Grigg Green, co-founder and executive director of the multidisciplinary Foster Care Advocacy Center in Houston, Texas, to share her experience, lessons learned, and plans for the future.

Can you tell us a little about when and why you founded the Foster Care Advocacy Center (FCAC)?

Although I am from Houston, I went to law school and policy school on the East Coast for four years. During that time, I had internships and externships with highly regarded multidisciplinary law offices for children and parents involved in dependency cases. I witnessed firsthand how cases have better outcomes when individuals are represented by a multidisciplinary team. When I started my Skadden Fellowship working on dependency cases in Houston, I was shocked to see that this type of representation did not exist in one of the biggest cities in the country. While working with my youth clients, I would find myself trying to explain contraceptive options to them or trying to help a kinship caregiver apply for Medicaid — things I definitely did not learn in law school. I was convinced I could better serve my clients if I were able to work with a social worker. Eventually, my FCAC co-founder took me to coffee and told me, “If we don’t do it, no one will.” I knew he was right, so we spent the next year preparing for our launch by meeting with other legal nonprofit leaders in Houston and people



ABOUT THE AUTHOR:

Tara Grigg Green is the Co-Founder and Executive Director of Foster Care Advocacy Center, a nonprofit multidisciplinary law office in Houston, Texas that represents children and parents involved in child welfare cases. Prior to starting FCAC, Tara was a Skadden Fellow at Disability Rights Texas and clerked for Hon. Micaela Alvarez of the U.S. Southern District of Texas in McAllen. Tara holds a J.D. from the University of Pennsylvania Law School, a M.P.P. from the Harvard Kennedy School of Government, and a B.A. from Rice University.

For more information about FCAC, please visit www.fcactexas.org or email info@fcactexas.org.



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who run multidisciplinary offices around the country, applying for startup funding, and finalizing the documents we needed to be operational. FCAC started operating in June 2018 with me as the only employee and a handful of clients. Today, we have a staff of 8, currently represent approximately 200 clients, and have closed about 100 cases.

What is FCAC's mission and vision? What client population do you serve?

FCAC's mission is to provide holistic advocacy inside and outside the courtroom for children and parents involved in the child welfare system. Our vision is to create a more just foster system.

Because Harris County does not have offices that represent parents or children in dependency cases, representation is done by a bar of solo practitioners. We receive appointments from almost all the fifteen Harris County courts presiding over dependency cases. About two-thirds of our clients are children and about one-third are parents. Since we have a social services team and our attorneys do ancillary litigation like special education proceedings and Medicaid appeals, we are often assigned some of the most complex cases involving individuals with intellectual disabilities, serious mental illnesses, chronic health issues, or older youth with long-term system involvement. We have also represented about 25 community legal advocacy clients to see how other legal work can help prevent unnecessary removal of children.

Can you describe how your model of multidisciplinary representation works in a typical case?

How does multi-disciplinary representation benefit the clients you work with?

FCAC has a social services team: a Social Services Director (LMSW), Parent Partner (lived experience with the child welfare system, substance abuse, and sexual exploitation), and social work interns doing their field work at FCAC. We, unfortunately, do not have enough social services staff to have social service support on every case. Every new case is staffed by the Social Services Director and the lead attorney to assign an intervention level of 0–4 to the case. This determines whether the social services team is working the case intensively (meeting the client every week and doing regular crisis management), providing a moderate level of assistance (meeting the client once a month and making service referrals), or just meeting the client once for a basic assessment. The levels can change at any time and are regularly reviewed by the Social Services Director. The social services team member and the lead attorney are in constant communication, including regular staffings about the client's needs and the legal case, and the attorney is still expected to visit with the client and attend all meetings with CPS.

The social services team has been invaluable in locating and assessing appropriate placements, including conducting our own risk assessments on family members. Additionally, the social services team identifies treatment providers, helps secure housing vouchers, and diffuses crisis situations with

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clients. Most importantly, the social services team works with clients to achieve client-directed goals, not just goals and requirements CPS determines.

We have found that the parent clients who work with our Parent Partner have higher engagement in services, are more likely to have unsupervised visitation with children, are more likely to refrain from substance use, and have more amicable case resolutions. We assign her to every other parent client appointment we receive in our best effort to randomize her “intervention.” Because of our Parent Partner’s own lived experiences, she has an intangible connection with our parent clients that help illuminate their strengths.

What are the biggest lessons you have learned since founding FCAC? What have been your biggest challenges?

My biggest lesson has been how important it is to have an amazing team, especially at this stage. It has been an incredible privilege to be able to handpick everyone who works for FCAC. My team is excellent at what they do, and I take so much pride in their work. All of us worked at more lucrative and stable jobs before joining FCAC, and taking a leap of faith together has bonded all of us. We trust each other and hold each other accountable. I am trying to savor this moment because I know that as we keep growing, my relationships with the frontline staff will be more diffuse, and this intimate family feeling will not be able to last forever. However, especially in this early stage, it has been a huge relief that I never have to worry about the quality of our work.

Our work is taking care of vulnerable people, so it has also been a very important lesson for me that you must take care of your people who take care of people. I try to stay cognizant of how the emotional toll of our work is compounded by the time we are living in. I open every one-on-one with “How are you doing?” and I end it with “What do you need from me?” This has helped me do my best to make sure my expectations of my staff are reasonable and feasible. I also have frequent check-ins because I want to make sure we course-correct before a small problem grows into a big one and as we continue to develop our policies and practices.

As far as challenges, it is always funding — finding it, keeping it, and getting more of it so we can grow. On cases where we are court-appointed to represent the child or the parent, we are able to bill the county for the attorney’s time, which covers about fifty percent of our costs. Since we are not reimbursed for any of the social services team’s work on a case, I fundraise to cover the costs of the multidisciplinary and support staff. We are very fortunate that we received the support of a few local foundations early on, which is how we were able to create our multidisciplinary team.

CORNER ▶ from previous page**LAW OFFICE****What's on deck for FCAC in 2021? What are you most excited about?**

I am very hopeful to do three things in 2021. The first is to hire an attorney to represent our Black, Indigenous, and People of Color (BIPOC) clients who are boys and young men. Right now, our staff is all women, which is great in many ways, but we are not able to connect with our male clients with shared lived experiences. I am extremely proud that the racial diversity of our staff matches the racial diversity of our clients and the communities we serve, but gender diversity is an important piece that we are missing.

The second is I hope we continue to build our pre-petition legal work. We spent the last few years taking a large variety of pro-bono clients to explore where we can best meet the needs of the community. We have found that the time after CPS gets involved but before the child is removed is where we can make the most impact. I think this is the year where that work can start to thrive because of the groundwork we have laid with stakeholders and current clients.

Lastly, we just launched a partnership with the Harris County Youth Collective (HCYC) to bring in Peer Partners for our clients who are dual status and/or older youth at risk of aging out of care. HCYC has young adults on staff with lived experience going through the foster care system and the juvenile justice system. Since we have had enormous success with our parent clients who work with our Parent Partner, we are hoping to have similar success with our Peer Partners for youth clients, and we are currently piloting how this will work with a small number of youth. I am very hopeful we will be able to scale this up by the end of the year. ■



Case Digests

*In response to NACC member feedback, select issues of the Guardian will feature summaries of key federal and state appellate cases pertinent to child welfare that were issued in the last year. These digests are **not** a substitute for a practitioner's responsibility to conduct independent case research and analysis; where possible, we have provided links to the cases to assist you in doing so. If you have a case from your jurisdiction you think would be a relevant addition to the Guardian Case Digest, please email the case cite and details to Kristen.Pisani-Jacques@NACCchildlaw.org.*

[U.S. v. Silvestre-Gregorio, No. 19-5801 \(6th Cir. 2020\)](#) (no right to counsel for minors in immigration cases)

At his immigration removal hearing, the judge asked 16-year-old Silvestre-Gregorio several times if he wanted time to hire an attorney “at little to no cost” to him, but, with the assistance of an interpreter, he declined. When he later returned to the U.S. after being removed, Silvestre-Gregorio was charged with unlawful reentry of a removed alien. Silvestre-Gregorio argued that his prior removal violated his right to due process by failing to provide him (a juvenile) with counsel at his removal hearing and not informing him that discretionary relief may be available. Thus, he argued that his removal could not be a basis for violating the statute. The Sixth Circuit held that the Fifth Amendment does not guarantee the right to counsel for undocumented immigrants, regardless of age, at removal hearings. The Court found that Silvestre-Gregorio’s removal proceeding was not fundamentally unfair and that he did not have a constitutionally protected liberty interest in obtaining discretionary relief from deportation.

[Endy v. Los Angeles, No. 19-55663 \(9th Cir. 2020\)](#) (maintaining unfounded child abuse allegation in state database did not violate due process or privacy rights)

Endy filed suit against the County of Los Angeles and DCFS claiming that his due process and privacy rights were violated by maintaining unfounded child abuse allegations against him in the California Child Welfare Services Case Management System (CWS/CMS) without providing him notice or a hearing to challenge them. The Ninth Circuit found that Endy did not prove that his record in the CWS/CMS caused him reputational harm or deprived him of a constitutional liberty interest. Because the information in the CWS/CMS is confidential and generally prohibited from public disclosure without a court order, the Court did not find a violation of his right to privacy.

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[Holliday v. Leigh, CIVIL ACTION NO. 2:17-cv-113 \(WOB-CJS\) \(E.D. Ky. 2020\) \(substantive and procedural due process rights during a child protection investigation\)](#)

Holliday was reported to the Kentucky Cabinet for Health and Family Services (CHFS) based on a bite mark on her three-year-old daughter. Although there was evidence that Holliday's child was bitten by another child at daycare, the agency coerced Holliday, by threatening to put her child into custody, into signing a prevention plan that was effective for three months; the plan stated that Holliday could not be with her daughter without supervision. Holliday sued, alleging that the CHFS social worker and her supervisor violated Holliday's Fourteenth Amendment procedural and substantive due process rights; she also made a claim for intentional infliction of emotional distress and punitive damages. The district court denied the defendants' motion for summary judgment and ruled that the CHFS social worker and her supervisor were not entitled to qualified immunity (1) against the substantive due process claim because the prevention plan abridged Holliday's due process right to family integrity; (2) against the procedural due process claim because Holliday was not provided with notice of her rights or the means to contest the plan; and 3) against the claim for intentional infliction of emotional distress as the "defendants' investigation was taken with deliberate indifference towards Holliday and [the child's] needs and was thus outrageous and intolerable." The Court did grant summary judgment on the claim for punitive damages as Holliday could not prove that the defendants acted with "callous indifference."

[In re Y.E.F., Slip Opinion No. 2020-Ohio-6785 \(right to counsel in adoption cases\)](#)

The child's paternal aunt and uncle filed a petition for custody in probate court. The probate court denied two requests by the mother to have counsel appointed to represent her. The Ohio Supreme Court stated that parents in custody proceedings in juvenile court and parents in adoption proceedings in probate court "face the same termination of their fundamental constitutional right to parent their children as a result of judicial action." Thus, as a matter of equal protection, indigent parents were entitled to counsel in adoption proceedings in probate court, and the State did not have a compelling state interest for not providing counsel to them.

[In re Ava W. \(SC 20465\) \(2020\) \(post-adoption contact\)](#)

The trial court denied the request for post-termination or post-adoption visitation between mother and child. The Connecticut Supreme Court found that pursuant to §46b121 (b) (1), the trial court had broad authority to issue post-termination visitation orders if they were "necessary or appropriate to secure the welfare, protection, proper care and suitable support of the child." The trial court's order was reversed, and the case



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remanded to the trial court for a ruling on the request for post-termination visitation using the statutory standard.

**[In re R.S., Case No. 23-I-16-000012 \(2020\)](#)
(declares Interstate Compact for the Placement of Children (ICPC) non-applicable to parents)**

The child was removed from her mother’s care in Maryland; the child’s father resided in Delaware. The father complied with all agency requests, and the agency requested an ICPC, which was denied. Relying on the findings of the Delaware ICPC report, the juvenile court awarded joint custody to the father and his parents. The Maryland Court of Appeals found that under the ICPC, the statutory definitions of “placement”, “foster care”, and “pre-adoptive placement” did not include the home of an out-of-state biological parent, and that it was impermissible for any regulation to attempt to expand the application of the ICPC to out-of-state placements with a noncustodial, biological parent. The Court also found that the application of the ICPC denied the father protections afforded to him by the Fourteenth Amendment and because he was never found unfit, he should not have been denied custody of his child. NACC filed an amicus brief in this case, which can be found [here](#).

**[In re Dependency of Z.J.G., No. 98003-9 \(2020\)](#)
(Indian Child Welfare Act (ICWA)/Washington State Indian Child Welfare Act (WICWA): “reason to know”)**

Although the Department’s petition indicated that it knew or had reason to know the children were Indian children, and the parents testified that they thought their children were eligible for tribal membership, the trial court ruled that ICWA did not apply. The Washington Supreme Court held that “[d]uring a child custody proceeding, if a court has a ‘reason to know’ that the child is an Indian child, it must apply the protections of ICWA and WICWA.” The Court ruled that “an indication of tribal heritage [was] sufficient to satisfy the ‘reason to know’ standard”; thus, the child should be treated as an “Indian child” until a determination was made by the tribe as to whether the child either had tribal membership or was “eligible for membership in an Indian tribe and [was] the biological child of a member of an Indian tribe.” The Court held that given the testimony and the assertions in the petition, the trial court had “reason to know” the children were “Indian children,” and thus, should have applied the heightened ICWA and WICWA standards.

**[In the Interest of A.H., No. 20-0654, 2020 WL 4201762](#)
(Iowa Ct. App. July 22, 2020) (addressing due process claims related to the lack of in-person hearings in cases during the pandemic)**

Parents appealed the denial of their motion to continue a termination of parental rights hearing, arguing that termination via teleconferencing violated their due process rights,



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including the right to be present and confront witnesses. The Iowa Court of Appeals stated that the Iowa “Supreme Court has not found a due process right to be physically present for a termination proceeding.” The Court noted that the parents were present by phone (just like all other parties/counsel) for the entire proceeding, were able to privately consult with their counsel, and did not identify any risk or error that occurred from conducting the proceedings by telephone or additional safeguards that could have been imposed. The Court of Appeals found that the juvenile court did not err in holding the termination trial via telephonic conference given the urgency and need for permanency in the face of statutory timelines.

People in the Interest of A.M., 2021 CO 14
(termination of parental rights v. “less drastic alternatives”)

Faced with terminating the father’s rights or granting permanent custody to the child’s aunt, the trial court found that while both options would serve the child’s physical, mental, and emotional needs, termination was in the child’s best interest because “it provides a slightly higher probability of permanence.” Rejecting the Colorado Court of Appeals’ use of an “adequacy” standard for determining less drastic alternatives, the Colorado Supreme Court held that “if a trial court considers a less drastic alternative in connection with its overall evaluation of the statutory criteria for termination and finds that it is in the child’s best interests, it should deny the termination request.” Conversely, if the same evaluation is made, and the trial court “finds that termination is in the child’s best interests, it must reject the alternative and order termination.” ■

Megan Louise Furth Youth Empowerment Fund

The Megan Louise Furth Youth Empowerment Fund was created by former NACC Board Member Donna Wickham Furth to honor the life of her daughter Megan Louise Furth, a remarkable young woman who died in July 2003 at the age of 31. The NACC Megan Louise Furth Youth Empowerment Fund was created to help promote the concept that children and youth are valuable persons and citizens with inherent legal and human rights. The Fund supports youth engagement and youth voice across NACC’s programs.

Donate online : [Megan Louise Further Youth Empowerment Fund](#)



Q&A with the upEND Movement:

Ending the current child welfare system and creating in its place new, anti-racist structures and practices to keep children safe and protected in their homes.

NACC aims to keep practitioners informed and involved in anti-racist child welfare work – in the legal field and across the spectrum of disciplines addressing racism and other forms of discrimination in public policy. The Center for the Study of Social Policy (CSSP) and the University of Houston Graduate College of Social Work have collaborated to create the upEND Movement, a network designed to tap into work already being done and spark new work that will ultimately create a society in which the forcible separation of children from their families is no longer an acceptable solution for families in need. NACC asked representatives of the upEND Movement to share more about their philosophy and goals.

Why did you start the upEND Movement?

For many years, the Center for the Study of Social Policy (CSSP) and colleagues at University of Houston Graduate College of Social Work (GCSW) worked to identify and reduce racial and other inequities in child welfare systems. After much introspection and feedback from youth and families, we realized that reforming the child welfare system was not enough.

For decades, the child welfare field has studied, described, and debated racial disproportionality and disparities in the child welfare system.¹ We have encouraged the collection of data and shared “best” and “promising” practices. As a field, we have attempted multiple types of child welfare reforms that explicitly center racial equity. Attempts at reform include: training child welfare leaders and workers on structural and institutional racism; studying and trying to remedy individual case worker bias; using tools such as blind removals and structured safety and risk assessments; partnering with communities to inform the development of new policies and practices; using peer supports and parent partners; developing drug treatment courts or specialized courtrooms that focus on families with young children; revising policies and procedures to offer more supports to kinship families; and reducing the use of congregate care.² Nevertheless, our collective reform

¹ See Child Welfare Information Gateway (2016). Racial Disproportionality and Disparity in Child Welfare. Available at https://www.childwelfare.gov/pubPDFs/racial_disproportionality.pdf

² For more information about these and other reforms see: <https://www.childwelfare.gov/topics/systemwide/cultural/disproportionality/reducing/statelocex/>; <https://journals.sagepub.com/doi/full/10.1177/0002716220980329>; <https://files.eric.ed.gov/fulltext/ED561817.pdf>; http://centerforchildwelfare.org/kb/dispr/racial_disproportionality2011.pdf

ABOUT THE AUTHORS:

Alan J. Dettlaff is Dean of the Graduate College of Social Work at the University of Houston and the inaugural Maconda Brown O'Connor Endowed Dean's Chair.

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efforts have resulted in limited improvement in experiences for many Black, Native, and Latinx families, and data that continue to show that negative experiences and poor life outcomes persist for far too many children and youth.

The roots of racism are so deeply entrenched in our culture that they cannot simply be reformed. The United States has a tragic and troubling history of separating and inflicting harm on Black and Native children. The child welfare system is not immune to this history and we see how elements of the past continue forward into the present — through demeaning, damaging narratives and corresponding policies and practices that negatively impact Black, Native, and, increasingly, Latinx families. *Our goal is for all children and youth to be safer and healthier than they are now.* It is for these reasons that we are working to upEND the child welfare system through a process that places the emphasis on supporting communities, especially Black, Latinx, and Native communities, with the resources they need to thrive.

When did the upEND movement start? Why was the movement needed at that time?

In 2019, after taking stock of our progress and failures at reforming child welfare systems, CSSP and GCSW planned to host a forum in April 2020 with parent and youth leaders, advocates and organizers, researchers, and child welfare leaders to begin to design anti-racist research, policy, and practice to support children and youth currently involved in the child welfare system. We also wanted to examine abolitionist theories and frameworks in order to achieve a new vision for care of children and youth. By early spring 2020, the global pandemic had shut down our ability to meet face to face, so we paused to reconsider our strategy. However, the relentlessly oppressive environment of the spring and summer, including the murders of George Floyd, Breonna Taylor, Rayshard Brooks, and so many others; the inequities amplified by the COVID pandemic; and the blatant rise of White supremacist groups supported by state and federal actors, compelled us to launch the upEND movement in June 2020.

Further, the increasing call to defund and abolish the police over the summer and the widespread support to have social workers support families in crisis instead of the police, raised the need to reflect on the policing nature of many social work interventions, particularly those in the child welfare system. We felt it important to lend our experienced voices to ensure that calls to defund and abolish the police extended to rethinking the policing done by other carceral systems, including “child welfare.”

What problems/issues does upEND seek to address?

upEND names and describes historic and current racist policies, practices, and research that promote and maintain the oppression of Black, Native, and Latinx children through surveillance and family separation. Further, upEND seeks to address the root causes of harm (physical, sexual, and emotional) to children by answering the questions: why does child maltreatment occur within communities and families, and how can we, on a societal level, truly prevent child maltreatment from occurring? Child welfare agencies intervene after harm has occurred. The goal of the upEND movement is to bring about the conditions that facilitate a society in which children and families have what they need to be safe and thrive. We also seek to highlight the harm that results from family separation, which is most often used as a response to address larger societal ills such as poverty, lack of housing, and lack of safe and quality childcare.³ Even with well-intentioned caseworkers and leaders, the child welfare system polices and regulates families through coercive interventions that result in immeasurable harm to families and children that are disproportionately Black, Native, and, in many places, Latinx.

³ See Sankaran V, Church C, Mitchell M. A Cure Worse Than the Disease: The Impact of Removal on Children and Their Families. *Marquette Law Rev.* 2018. 102:1161. Available at: <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=3055&context=articles>; Trivedi S. The Harm of Child Removal. *N Y Univ Rev Law Soc Change.* 2019. 43:523. Available at: https://scholarworks.law.uabalt.edu/cgi/viewcontent.cgi?article=2087&context=all_fac.

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The upEND movement is also concerned with the impact of and inadequate response to substance use, domestic violence, and mental health. Mental health interventions are often culturally inept and grounded in a dominant culture's view of "mental illness" and treatment paradigms. Instead of providing parents and children with supports that can help them navigate through mental health crises, mental health challenges often activate coercive interventions which fail to address the real causes and solutions these families need. We reject the ableist⁴ notion that parents who are grappling with mental health challenges are automatically unfit to parent their children. While a parent's substance use may require treatment, that should be based on empathy and support; too often parents and caregivers who use substances are penalized and criminalized instead of supported through strategies focused on harm reduction. Survivors of domestic violence are often retraumatized by child welfare responses which often label the survivors as neglectful caregivers. Responses to domestic violence should prioritize survivors' needs and support their familial bonds. Yet for families experiencing domestic violence, the threat of a child welfare investigation may discourage them from seeking help.

An abolitionist framework asks us to shift how we think about addressing the challenges that families face. We advocate for human-centered, anti-carceral responses to mental health, substance use, and domestic violence through supportive services that strengthen families and maintain children with their parents.

What organizations are involved in upEND?

The upEND Movement was launched by the Center for the Study of Social Policy and the Graduate College of Social Work at the University of Houston. Since our launch, over 4,000 people participated in an upEND symposium in October 2020, and many organizations and individuals have visited www.upendmovement.org and committed to a pledge to keep families together. Because this movement must be led and continuously informed by parents, youth, advocates, and others, much of our current work is connecting with these individuals and organizations and co-creating future work together. We hope to develop and implement upEND ideas with interested communities and connect with those who are already engaged in this work. We are dedicated to a movement that authentically includes members in thinking, planning, and envisioning moving forward.

What are the goals of the upEND movement?

Right now, upEND focuses on two key goals:

1. Identifying the critical components to shrinking the child welfare system while simultaneously building fundamental and robust supports for families and for communities; and
2. Reimagining how we support and serve families and eliminating the root causes that create conditions for child maltreatment to occur.

We are joining parents, communities, children, and youth with lived experience in foster care, and community advocates in calling for the abolition of the child welfare and foster care systems. We recognize that abolition is a transformative process. Abolition as a goal requires that we actively dismantle racist policies and simultaneously create anti-racist policies and practices that reduce harm to families and support communities to ensure that all children can remain at home

⁴ We define ableism as a set of beliefs or practices at the individual, community, or systemic level that devalue and discriminate against people with physical, intellectual, or psychiatric disabilities and often rests on the assumption that disabled people need to be "fixed" in one form or another. See CSSP (2019) "Key Equity Terms and Concepts: A Glossary for Shared Understanding." Washington, DC: Center for the Study of Social Policy. Available at: <https://cssp.org/wp-content/uploads/2019/09/Key-Equity-Terms-and-Concepts-vol1.pdf>.

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safely with their families. This process also requires the shifting of power from the child welfare system and other institutions of social management to communities.⁵

Instead of regulating families' behavior and traumatizing families through separation, we believe that we should reimagine how we address child, family, and community well-being. Basic financial supports are needed and upEND will work with community partners and families to advocate for the resources children and families need to thrive. This will encompass many things including:

- strategies for income security including jobs that pay sustainable wages, a permanent child allowance,⁶ and paid family leave;
- safe and affordable housing;
- affordable and accessible health care that provides families with preventive health care, mental health services, and substance use treatment;
- food security programs; and
- community-based family supports including affordable childcare; assistance for new parents and effective and culturally-specific programs to reduce community violence and intimate partner violence.

Ultimately, we believe that collectively we can build communities where residents intervene and provide support when needed and there is a community system of care that can minimize and address harm.

What's on deck for the upEND movement in 2021? What does the movement hope to accomplish this year?

In 2021, we hope to be working more closely with many partners, including parents and youth impacted by system interventions, to:

- provide additional information about the research and lived experiences of families that shapes this work;
- share the thinking and work of our partners, including mixed media pieces that are anti-racist and explore abolition theory and practice;
- develop a policy and practice agenda about abolition and reimagining care and support for families; and
- identify opportunities within the Biden Administration to confront historic and current racism and promote policies that are reparative and economically support families and communities.

How can an individual or organization get more involved with upEND? How can they learn more?

Please visit our website: www.upendmovement.org to access information about the movement, resources that are continually updated, and initial action steps we are asking partners to take. ■

5 For more information about our stance on abolition, please see our article "What It Means to Abolish Child Welfare As We Know It." *The Imprint*. A. Dettlaff, K. Weber, M. Pendleton, B. Bettencourt, and L. Burton. "What It Means to Abolish Child Welfare As We Know It." Oct. 14, 2020. Available at: <https://imprintnews.org/race/what-means-abolish-child-welfare/48257>.

6 A child allowance is a regular cash payment that goes to families based on the number of children in the household. For more information see, E. Minoff, "Economic Security in Good Times and Bad: COVID -19 Demonstrates Why We Need a Child Allowance." *Center for the Study of Social Policy*, March 2020. Available at: <https://cssp.org/wp-content/uploads/2020/03/Policy-Child-Allowance.pdf>.



READER PANEL

One Year into the COVID-19 Pandemic

At this time last year, the country was beginning to shut down and feel the impacts of the COVID-19 pandemic. This was particularly true for youth, parents, and families involved in the child welfare system, where family time, court hearings, and needed services were cancelled or suspended indefinitely. *A year into the pandemic, what is the state of child welfare in your jurisdiction? Is the system better, worse, or no different than in March 2020?*

Stacy L. Miller, JD, CWLS

Assistant District Attorney General

Juvenile Court Team Leader | 20th Judicial District of Tennessee

Honestly, it is worse because we have gone one entire year with very little ability to provide face-to-face contact with youth in terms of service provision. Every agency has done their best to continue to help families and children, but the reality is that without that regular, intensive, actual contact, communication suffers, and services are much less effective.

Ivory Bennett, M.Ed.

Author, *Because You Were Chosen* | Dallas, Texas

NACC National Youth Advisory Board Member

The state of child welfare is neutral — given the right leadership, the state of child welfare could absolutely reroute into a more efficient, positively impactful resource for those whom it impacts. However, as the news has frequently reported, many leaders are making decisions for the welfare of others based on money and politics — two things that never align well with the needs of marginalized people. And although the COVID-19 pandemic has presented a strange, but opportunistic leveling of fields for many marginalized people and industries, I am concerned that the people in power will leverage this pandemic in a way that only benefits and serves their agendas for power and prestige. So, on a macro level the system is not better: youth, parents, and families are suffering more now than ever with no clear end in sight; resources do not match the circumstances; and the fatigue of the pandemic is weighing heavily on the bodies, minds, hearts, and spirits of people. On a micro level, the front-line workers — social workers, CASAs, lawyers, case managers, Independent Living staff, foster parents, caregivers — have shown up in ways that no amount of money or fame can reward. The kindness of the “everyday” people has carried the brunt of the pandemic burden — and that is the only thing that gives me hope that a better child welfare system is possible.

Fernando Morgan, JD, CWLS

Morgan Law Firm | Montgomery, Alabama

NACC State Coordinator for Alabama

In Alabama it is improving. Alabama is holding hearings utilizing a hybrid model — some in person and others virtual. Early into the pandemic, our Administrative Office of Courts enacted several administrative orders to allow for virtual hearings. One major challenge is an increased turnover with social workers. Although we have begun to embrace technology to allow for services by virtual means, the constant change in workers hampers the process. I am encour-

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aged because stakeholders, including service providers, have largely embraced technology to deliver services. For example, one local drug treatment center has a virtual program including virtual AA/NA meetings, drug counseling, and peer support. We are not where we need to be, but we are on our way.

The Honorable Aurora Martinez Jones, CWLS
126th District Court Judge | Travis County District Courts | Austin, Texas
NACC State Coordinator for Texas

It's hard to believe that we have been a year into the COVID-19 pandemic. So much has changed and in Texas we have seen a super-sized technological boost to our legal system. This has been amazing for more active engagement with parents who have extraordinary expectations set on them by the Court to complete services, maintain employment, have stable housing, and meaningfully engage with their children. At the least, we have been able to have court appearances become less of a burden through remote hearings. We have also been able to see more diverse jury panels on remote jury trials, a wider array of services occurring remotely, and greater access to telemedicine. These have all been positive improvements. However, we have also been confronted with the stark impact of the pandemic on people of color and people in low-socioeconomic households as well as the impact on communities with no or low internet connectivity. Infrastructure and health care inequities are directly affecting parent-child relationships in our State, as well as across the county. Ultimately, it is our most recent severe winter weather disaster that occurred in Texas in February 2021 that has pushed back our child welfare system into a bigger placement crisis than we were in before. So many families suffered across the entire state because there was no electricity for days, loss of water, lack of food, burst pipes, all during below freezing temperatures. Texans were not prepared for this. We are now in desperate need of more resources for families and foster placements for those children who are without placement options. Without a doubt, Texas children and families have suffered more today than this time last year. We remain hopeful that with strong community, we will rebuild and care for our most vulnerable, as is our charge.

Buffy Jo Okuma, JD
Chief Deputy District Attorney | Washoe County, Nevada

Who would have thought a year ago that the pandemic was going to last more than a year! As an agency attorney, I have had to analyze issues I never imagined, most related to balancing the safety of foster families, children, and parents while trying to maintain case management, services, visitation, and school attendance. A year later, our hearings remain by Zoom. A few people think Zoom has increased participation from those who had difficulty appearing in person due to work or other obligations; however, that small gain is outweighed by the lack of connection and decorum. Education of our foster youth, and youth as a whole, continues to be a struggle. Visitation/family time remains a challenge, though our Family Engagement Center has adapted to allow as much safe visitation for as many families as possible. I hope a few of the forced changes will remain when we go back to "normal" — including the ability to video chat rather than talk on the phone when we are not able to have an in-person meeting. This has allowed me to have more frequent staffings with my social workers and has been beneficial.

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Rebecca E. May-Ricks, JD, CWLS
Attorney Supervisor, Mental Health Advocacy Service,
Child Advocacy Program | Baton Rouge, Louisiana
NACC State Coordinator for Louisiana

In thinking about where we were last March versus now, I think we have made some positive progress in Louisiana. In the beginning, there was confusion about how to get services to families. Visits were being suspended. A lot of parents, foster parents, service providers, and courts did not have technological capabilities. FaceTime, Skype, and Zoom became the only ways for parents and children to see each other, for kids to get school instruction or counseling, or for parents to get their court-ordered services. It took a while to get everyone caught up technologically. I say “everyone,” but of course, we know there are still people and places in the state that never did get caught up and are still not able to access the technology. We have made a lot of improvements, but there is still work to be done. We are going to court in person in some jurisdictions, when appropriate, and utilizing the technology when needed for court appearances. The same is true for meetings and visits. We have definitely seen more in-person visitation occurring, but it’s not universal. This is a jurisdiction-by-jurisdiction issue, and in a lot of places, it’s case-by-case. A lot of the mental health and substance abuse counseling services are still virtual, which is probably the biggest barrier we still have to overcome. We hear from our clients that they are participating, but they’re not getting as much out of it. Appointments can be difficult to get. Internet service is unreliable. But something is better than nothing, which is where we were a year ago.

Kathryn P. Banks, JD, LL.M.
Associate Professor of Practice | Director, Children’s Rights Clinic
Washington University School of Law | St. Louis, Missouri
NACC Board Member

I think COVID has forced us all to reconsider the ways that we work with and engage with children and families in the court system. Some jurisdictions have taken this opportunity to develop best practices while others have highlighted opportunities for growth. Ultimately, it has provided a stark picture of how we create systems that work for the professionals, but not the families involved in those systems.

JOIN THE PANEL!

Guardian readers are invited to join our Reader Panel. You’ll receive an email asking for your responses to questions about child welfare legal practice. Selected responses will be featured in The Guardian. Please send an email to Kristen.Pisani-Jacques@NACCchildlaw.org letting us know you are interested in joining the panel.



REDEFINING FEDERAL PRIORITIES:

A Thank You to Dr. Jerry Milner



For the past four years, Dr. Jerry Milner reshaped the direction of the U.S. Children's Bureau and child welfare policy. As is customary for political appointees of an outgoing Presidential administration, Dr. Milner resigned in January 2020. Herein, NACC takes a moment to recognize Dr. Milner's impact and thanks him for his service and his efforts to uplift the voices of children and families impacted by the child welfare system.

Jerry Milner, DSW, was appointed in June 2017 as the Acting Commissioner of the Administration for Children, Youth, and Families and the Associate Commissioner of the U.S. Children's Bureau. Dr. Milner began his career as a child welfare social worker, an experience he frequently cites as foundational for his work and his vision. From the start, he welcomed the partnership of David Kelly, an attorney with direct representation experience, whose work advanced and elevated the importance of high-quality legal representation in the child welfare system. Together, as a multidisciplinary team at the policy level, they charted a new course for the Children's Bureau.

The Children's Bureau is located among a hub of big federal buildings in downtown Washington, DC. But if you had visited on any given day in the last four years, you probably wouldn't find Dr. Milner there. Dr. Milner made a clear choice to spend most of his time in the field, traveling across the country listening to young people, parents, and practitioners about how the system can and must be better. During the COVID-19 pandemic, Dr. Milner immediately recognized the need to exercise statutory and regulatory flexibilities whenever possible and provide guidance to the field in an attempt to change "business as usual" for the American child welfare system.

Dr. Milner advanced a national vision (see infographic on page 38) of strengthening the protective capacities of parents to care for their children in safe and healthy ways and avoiding unnecessary family separation. He saw the value of your work as attorneys to make this vision a reality and opened up [significant entitlement funding under the Social Security Act for legal representation of children and parents](#). Dr. Milner has left the Children's Bureau, but the Informational Memorandums, Letters, and Program Instructions developed under his leadership remain as tools for your advocacy in service of children and families.

NACC congratulates Aysha E. Schomburg, JD, as the new Associate Commissioner of the Children's Bureau, and is excited to see the Children's Bureau continue family-centered work under her leadership. ■



Children's Bureau Guidance Summaries

In the last four years, the U.S. Children's Bureau issued important guidance documents. Many of these resources can assist your advocacy, both in individual cases and at the systems level. NACC shares brief summaries below with hyperlinks to documents and additional information.

[Utilizing Title IV-E Funding to Support High-Quality Legal Representation \(HQLR\) IM \(ACYF-CB-IM-21-06\)](#)

This is a follow-up to the [2017 Information Memorandum on High-Quality Legal Representation](#). Summarizes new research demonstrating the impact of multidisciplinary legal representation models. Explains that HQLR is a key strategy for child welfare systems improvement, including in statewide CFSR/PIP assessments. Emphasizes out-of-court lawyering work (such as time spent conducting an independent investigation and client counseling/relationship building) and the importance of cultural humility. Reiterates guidance around Title IV-E for legal representation, including when children are “candidates” for foster care, and details the claiming process. Recommends use of IV-E funding for joint trainings with child welfare legal community.

[PL 116-260, the Consolidated Appropriations Act, 2021 \(ACYF-CB-IM-21-05\)](#)

Summarizes key child welfare provisions in the recent federal COVID-19 relief package. The law increases max ETV award for older youth from \$5,000 to \$12,000 until October 2022, extends age eligibility to 27 until 2021, and waives school/work requirements. Allows much greater use of funds for room and board. Permits up to \$4,000 per year of Chafee funds for driving and transportation assistance. Prohibits state child welfare agencies from forcing youth to “age out” of care before 10/1/21 and requires those agencies to allow any youth who aged out since the pandemic to opt back in; mandates agencies to conduct public awareness campaigns on this. Provides 100% federal reimbursement for FFPSA prevention services through 9/30/21 and waives restrictions on Kinship Navigator evidence-based requirements during this period. Provides significant supplemental CIP funding to all states, which may be used for “technology investments, training for judges, and services to help families address the case plan.”

[Clarification on FFPSA Services and Cultural Adaptation for Tribes \(ACYF-CB-IM-21-04\)](#)

Explains allowable FFPSA modifications to evidence-based programs for Title IV-E participating tribes.

[Emerging Transformed — Sharing Lessons Learned from the Pandemic \(ACYF-CB-IM-21-03\)](#)

Acknowledges challenges posed in serving children and families because of the pandemic, which disproportionately impacted BIPOC communities (Ex. “Many ACF programs are reactive in nature with funding for support available, or eligibility triggered, only after a



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family is experiencing severe difficulty, or trauma to children and families has occurred. This disadvantages families that already confront economic fragility and a host of societal conditions that make life harder and present proven challenges to health and well-being, including the trauma and the impact of racism.”). Encourages child welfare leaders and stakeholders to organize an approach to systems change around: Access, Equity, Inclusion, Participation, and Support. Summarizes the new Thriving Families, Safer Children initiative, and recent federal program flexibilities, along with examples of how those opportunities have been utilized.

Civil Legal Advocacy IM ([ACYF-CB-IM-21-02](#))

Uplifts civil legal advocacy as a “critical strategy” for preventing foster care entry and promoting social determinants of health and protective factors. Activities may range from brief legal advice to case representation, to policy reform. Areas of need include housing, immigration, public benefits, intimate partner violence, etc. as well as representation in the dependency matter if a case is petitioned. Cites to key research showing the harms of foster care entry (pg. 5) that can be avoided through the provision of civil legal advocacy. Explains effective models such as medical-legal partnerships and provides examples from the field. Highlights multiple federal and non-federal funding streams to support civil legal work.

Achieving Permanency for the Well-being of Children and Youth ([ACYF-CB-IM-21-01](#))

Strongly calls for a child welfare framework that values well-being, rather than “solely prioritizing timeframes in an effort to achieve permanency.” Calls on courts and attorneys to exercise oversight responsibilities around reasonable efforts, exploration of kin, and more. Summarizes law on guardianship and reinstatement of parental rights. Urges utilization of TPR filing exceptions as applicable, using data to show that “children whose parents’ parental rights have been terminated may have longer durations in care that may not result in a finalized adoption.” Additionally, explains that “placing timeliness above the substance of thorough execution of case plans and reasonable or active efforts to achieve them runs the risk of placing process over substance and promoting shortcuts in practice that can be harmful to children and families.”

**Administration for Children and Families —
Youth Engagement Team Recommendations ([2021 Report](#))**

Summarizes recommendations from older youth about how to improve permanency and well-being. Focuses on three primary strategies: (1) relational permanency; (2) permanency with kin; and (3) older youth adoption. Gives concrete tips about how to operationalize each of these goals and elevate youth voice in case planning in general. (Note: NACC Youth Advisory Board members Aleks Talsky and Courtney Canova were part of the team of contributors!).

[Letter to the Field](#) — Ensuring the Continuation of Critical Court Hearings (2020)

Many of you are working in jurisdictions where services, family time and court hearings continue to experience disruptions due to the pandemic. In this letter, the Children’s Bureau



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urges agencies and courts to safeguard due process and “take immediate action to ensure that quality hearings and reviews include a full opportunity to participate, occur timely, and are consistent with federal civil rights obligations.” Reiterates consideration of TPR exceptions due to the pandemic.

Summary of requirements for Upcoming Child Welfare Agency Submissions (APSR, ETV, PSSF, etc.) ([ACYF-CB-PI-20-13](#))

Reiterates vision and commitment to family preservation and child well-being. Emphasizes the importance of high-quality legal representation (pg. 5). Communicates expectations that court stakeholders must be included in agency planning processes. ([A separate PI](#) addresses the same submissions for tribes).

Court Improvement Program Instruction ([ACYF-CB-PI-20-12](#))

Updates instructions for state CIP programs. Institutes new requirements for a CIP project focused on enhancing quality legal representation. Encourages child welfare law certification as one possible strategy. Includes templates for CIPs which are helpful to review, regardless of the role you play in the system, as they provide context about the framework for planning and change.

Use of Title IV-E Programmatic Options to Improve Support to Relative Caregivers and the Children in Their Care ([ACYF-CB-IM-20-08](#))

Begins by citing research and federal law regarding kinship care. Discusses strategies for promoting licensure of kinship foster homes and urges participation in the Guardianship Assistance Program (GAP). Reiterates Children’s Bureau’s prior recommendation that states interpret the term “kin” broadly, to include tribal kin, extended family and friends, and other fictive kin. Urges post-permanency support for relative guardians and provides a chart with info about all IV-E agencies’ (states and tribes) current participation in using licensing waivers and GAP.

Family Time and Visitation for Children and Youth In Out-of-Home Care ([ACYF-CB-IM-20-02](#))

Emphasizes the importance of family time and visitation in reducing the trauma of removal and placement of children in out-of-home care, maintaining the integrity of the parent-child relationship, healthy sibling relationships, and overall child and family well-being.

Engaging, Empowering, and Utilizing Family and Youth Voice in All Aspects of Child Welfare to Drive Case Planning and System Improvement ([ACYF-CB-IM-19-03](#))

Purpose is to demonstrate that family and youth voice are critical to a well-functioning child welfare system and to strongly encourage all public child welfare agencies, dependency courts, and CIPs to work together to ensure that family and youth voice are central in child welfare program planning and improvement efforts.

► **Guidance Summaries** from previous page



Funding for Parent and Child Legal Representation

On December 21, 2018, the Children’s Bureau announced a revision to the Child Welfare Policy Manual permitting states to receive federal Title IV-E funding reimbursement for the administrative costs of providing “independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent.” The policy was later updated to apply to tribal representation, as well as the costs of paralegals, investigators, peer partners, social workers, support staff, and overhead for independent child and parent legal representation.

Strengthening Families Through Primary Prevention of Child Maltreatment and Unnecessary Parent-Child Separation (ACF-CB-IM-18-05)

Strongly encourages all child welfare agencies and Children’s Bureau grantees to work together with the courts and other appropriate public and private agencies and partners to plan, implement and maintain integrated primary prevention networks and approaches to strengthen families and prevent maltreatment and the unnecessary removal of children from their families. ■

STRATEGIES TO STRENGTHEN FAMILIES:

THE CHILDREN’S BUREAU’S VISION FOR CHANGING NATIONAL CHILD WELFARE PRACTICE

Change our work’s focus to

- Preventing maltreatment
- Preventing unnecessary placements

1

Prioritize the importance of families

- Children must be kept in their communities and schools
- Foster parents must become resources to help support birth parents

2

Focus our interventions on the well-being of children and their parents

- Address both parent and child trauma
- Don’t cause additional trauma through unnecessary removal

3

Build the capacity of communities to support their children and families

- Locally based resources and services
- Supports families need must be located where families live

4

Develop and support a healthy and stable child welfare workforce

- Competent, skilled, and informed
- Capable and visionary leadership

5



This will require:

- FLEXIBLE FUNDING FOR PREVENTION
- SHARED COMMUNITY VISION
- COLLECTIVE CHANGE IN MINDSET



NACC Policy News and Amicus Updates



POLICY NEWS: FEDERAL UPDATES

Implementing Protections for Older Youth

Last week, the U.S. Children's Bureau issued [formal guidance](#) regarding the Supporting Foster Youth and Families through the Pandemic Act. The guidance addresses the federal moratorium on aging out of foster care, expansion and flexibilities for Chafee and ETV program funding, and supplemental funding for Court Improvement Programs. NACC recently contributed to an [FAQ document regarding the law](#). Our partners at the Child Welfare League of America shared an [overview](#) of the law and the Juvenile Law Center released a [summary of the older youth provisions](#).



Allison Green, JD, CWLS
Legal Director
Allison.Green@NACCchildlaw.org

American Rescue Plan Includes Promising Child Welfare Advancements

The \$1.9 trillion American Rescue Plan is now law. This COVID-19 relief package includes several important provisions that will directly impact the child welfare system, including increased funding for state grants made under the Child Abuse Prevention and Treatment Act (CAPTA) and an expanded Child Tax Credit (CTC) which is a promising initial step to addressing poverty. [Learn more here.](#)

NACC Joins in Renewed Call to Address Child Poverty

America's child poverty rate remains consistently higher than peer countries, and children experience poverty at a rate 54 percent higher than adults. Other countries, such as Canada and the United Kingdom, have effectively used targets to reduce child poverty, and it is time for the U.S. to do so as well. NACC recently renewed its support for the Child Poverty Reduction Act, which would codify a national target to cut child poverty in half within a decade and direct the National Academy of Sciences to analyze and monitor progress towards this goal. [Learn more here.](#)

End Federal Funding for Police in Schools

NACC and partners urge federal leaders to end federal funding for police in schools. We [joined in a letter](#) asking President Biden to issue an executive order to end federal funding of police in schools and to submit a FY 2022 budget that reflects such. NACC also endorses the [Counseling Not Criminalization in Schools Act](#).

Full Funding Needed for Juvenile Justice and Delinquency Prevention Programs

NACC supports full funding for juvenile justice and delinquency prevention programs in FY 2022. NACC signed on to a [recent letter on this issue](#), which additionally urged federal leaders to help states close and repurpose youth prisons. Especially during this time of economic

► **Policy News and Amicus Updates** from previous page



**Stay Tuned:
NACC's Revised
Recommendations for
Legal Representation!**

NACC's Youth Advisory Board has begun its process of redesigning the 2001 Recommendations for Representation of Children in Abuse and Neglect Cases. NACC is pleased to partner with [Beytna Design](#) to facilitate a process that centers on the lived experience of young people in foster care and utilizes a race equity lens. Youth Advisory Board members are offering expertise on what legal representation should look like, including client visits, communication, court participation, and more. Be on the lookout for revamped Recommendations later this year!

downturn when state and local budgets are strapped, it is important for Congress to invest new funding to achieve these critical goals, outcomes, and savings.

NACC Endorses Full-Service Community Schools Expansion Act

The Full-Service Community Schools Expansion Act would increase funding for the federal full-service Community Schools program from its current level of \$30 million to \$1 billion per year by FY 2025. In addition, it would add a grant program for states, enhance technical assistance, and promote best practices in Community Schools.

Opposing Juvenile Bars to DREAM Act Relief

NACC and partners oppose passage of the Dream Act of 2021 unless discretionary bars based on juvenile adjudications or gang affiliation are removed. Prohibiting immigration relief based on gang affiliation would punish youth for activity that in itself breaks no laws. It also risks punishing youth who may have had no true gang affiliation and were denied due process to prove their case. In either case, such a bar would be counter to all principles of basic fairness. Rather than promoting a narrative of the “good immigrant” versus the “bad immigrant,” Congress should be focused on ensuring all immigrant youth who have only known the United States as home no longer have to live in fear of an uncertain future.

Elevating the Needs of Young People in Pandemic Response

Even before the pandemic, all young people, and especially young people of color and those who live in under-resourced communities, were facing declining economic prospects and worsening mental health. In the last year, things have gotten worse. Congress must prioritize well-being and expanded educational and economic opportunities for young people in the American Rescue Plan.

Access to Justice is Critical for Children and Families

Children and families deserve access to justice, and incoming federal leadership must work quickly to reestablish an office focused on this critical issue. NACC joined with partners to urge the reopening of the Office of Access to Justice through Executive Action and to urge its protection in the future through statutory changes.

NACC Urges Incoming Administration to End Use of Solitary Confinement

NACC joined with partners to urge incoming federal leadership to end the use of solitary confinement by executive, congressional, and administrative action. The recommendations make particular requests surrounding the inhumane use of solitary confinement for juveniles held in detention.

Trauma-Informed Recommendations for First 100 Days

As a member of the Campaign for Trauma-Informed Policy and Practice, NACC endorsed a set of short-term priorities for the incoming administration to address trauma, adverse childhood experiences, historical trauma, and the impact of the pandemic. We look forward

► **Policy News and Amicus Updates** from previous page



to working with the Campaign and incoming leadership to develop a [trauma-informed agenda](#) for young people in America.

NACC Joins Call for “1% for Kids”

NACC supports the [“1% for Kids” budget proposal](#), which would promise a one percentage point increase in spending on children’s programs and services early in the new administration. [Learn more](#) about recent decreases in federal spending for children that must be rectified.

Renewed Support for the Emergency Family Stabilization Act

The bipartisan, bicameral Emergency Family Stabilization Act (EFSA) would create a new emergency funding stream administered by the Administration for Children and Families within HHS to provide flexible funding for community-based organizations to meet the unique needs of children, youth, and families experiencing homelessness in the wake of the coronavirus. Funds could be used for a wide range of supports shown to prevent entry into foster care: housing, health, education, employment, training, and more. NACC is pleased to support the reintroduction of this important legislation in the 117th Congress. [Learn more here.](#)

NACC Endorses COVID-19 in Corrections Data Transparency Act

NACC recently joined partners to support the COVID-19 in Corrections Data Transparency Act (H.R. 7983/ S. 4536). The bill requires the collection and reporting of key data on the spread and effect of coronavirus within all of the nation’s correctional facilities — including juvenile detention facilities. [Learn more here.](#)

POLICY NEWS: STATE UPDATES

ARIZONA: The state child welfare agency [has entered into a voluntary resolution agreement](#) with the Office of Civil Rights at the federal Department of Health and Human Services regarding the rights of parents with limited English proficiency. The agency must now take steps to ensure language access in its services and written documentation.

FLORIDA: Florida’s Office of Program Policy Analysis and Government Accountability has released a [Research Memorandum about the state’s Guardian ad Litem Program](#). The report flags data collection challenges that limit the ability to evaluate the program’s impact. It also highlights research that supports the efficacy of attorney representation.

NEW HAMPSHIRE: Advocates have filed a federal civil rights complaint on behalf of older youth in New Hampshire foster care. Claims center around the state’s unnecessary use of institutional and group facilities for youth with mental health disabilities, and important right to counsel claims. [Read more here.](#)

► **Policy News and Amicus Updates** from previous page



OHIO: A November 2020 suit alleges that Ohio's child welfare agency is violating federal law by failing to provide federally mandated financial support to relative caregivers. Advocates argue that a new plan signed into law last year does not go far enough to resolve the issue.

WASHINGTON: NACC's Executive Director Kim Dvorchak testified online before the Washington House of Representatives' Civil Rights and Judicial Committee regarding proposed legislation that would ensure access to counsel for children in Washington State. NACC was proud to follow the youth leaders of the Mockingbird Society, who have led this effort for years. Click here for archived testimony from the hearing, and/or read NACC's written testimony. The bill has since passed the state House and is awaiting vote in the state Senate!



AMICUS UPDATES

In Re L.I. & H.D.K

The Supreme Court of Hawai'i has ruled that parent counsel must be appointed upon filing of a dependency petition and that the failure to timely appoint counsel is reversible error. The court further clarified that the right to appointed counsel extends to petitions for family supervision and not only removal requests. NACC was pleased to join this case as amicus, along with the National Coalition for a Civil Right to Counsel, Lawyers for Equal Justice, the ACLU of Hawaii Foundation, and the Legal Aid Society of Hawaii.

In re Adoption of Y.E.F.

The Supreme Court of Ohio has ruled in a 5-2 decision that indigent parents have a right to counsel in involuntary adoption cases under the Equal Protection Clauses of the federal and state constitutions. NACC's amicus brief in this case can be found here. ■



Policy Request: If you are working on child law advocacy project (right to counsel for children, implementation of Title IV-E funding, etc.), and you believe NACC can assist you in achieving your goals, please submit a request using our online form.



Amicus Request: The NACC Amicus Curiae Program promotes the legal interests of children through the filing of amicus curiae (friend of the court) briefs in state and federal appellate courts. We submit our own briefs and participate as co-amici in cases of particular importance to the development of law for children. To submit a request for the NACC to participate as amicus curiae in a case you are working on, please download and complete NACC's Amicus Curiae Request Form.



NACC Office Hours: NACC is available to assist members with various child welfare court improvement efforts (Title IV-E funding, Family First implementation, etc.). Contact Allison.Green@NACCchildlaw.org to reserve time to ask questions, request resources, and brainstorm next steps to get things moving in your jurisdiction.



Membership Matters

Newly Updated NACC Member Resource Page

To better serve your practice, NACC is continuously updating our [Member Resources webpages](#). When was the last time you took a look? Check out the new Conference Library for access to all NACC conference materials over the last 10 years, updated Member Listserv instructions, the *Loyola Children's Legal Rights Journal*, prior issues of *The Advocate* and *The Guardian*, and easy access to NACC's Advocacy Request and Amicus Request forms.



Ruthann Gonzalez
Membership Outreach
Assistant

Ruthann.Gonzalez@NACCchildlaw.org

New Monthly Member Orientation

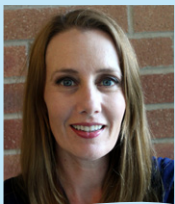
Join NACC's Executive Director Kim Dvorchak for a brief orientation to learn more about the services, products, networks, and resources available to you as a member of NACC. Then stay for an open forum to discuss issues impacting child welfare practice and our profession. Every third Thursday at 4:00 pm ET.

[Register here for March 25, 2021](#) | [Register here for April 22, 2021](#)

Organizational Memberships

NACC's newly updated organizational membership program is designed to bolster the national NACC community by engaging child welfare offices and agencies from small teams to large agencies. An organizational membership provides Bronze-level membership benefits and discounts to your entire office, law firm, or agency. When your office joins NACC as an organizational member, all staff can enjoy access to member benefits and resources including monthly webinars, monthly newsletters, the quarterly Guardian, discounts on CWLS certification applications, training, conference, and more!

Learn more and [enroll your organization now!](#)



Sara Willis, MA
Business and
Operations Director

Sara.Willis@NACCchildlaw.org

**PLATINUM
LIFETIME**
National Association
of Counsel for Children



Consider Elevating Your Support with a Platinum Lifetime Membership

When you join or renew your membership at the Platinum level, you receive all NACC member benefits for life! No notices, no renewals, just continued uninterrupted benefits. Lifetime Platinum Memberships cost \$2,500 and may qualify in whole or in part as a business deduction or charitable contribution (please see your tax advisor for more information). Help build NACC's platform with a [Platinum Membership](#).

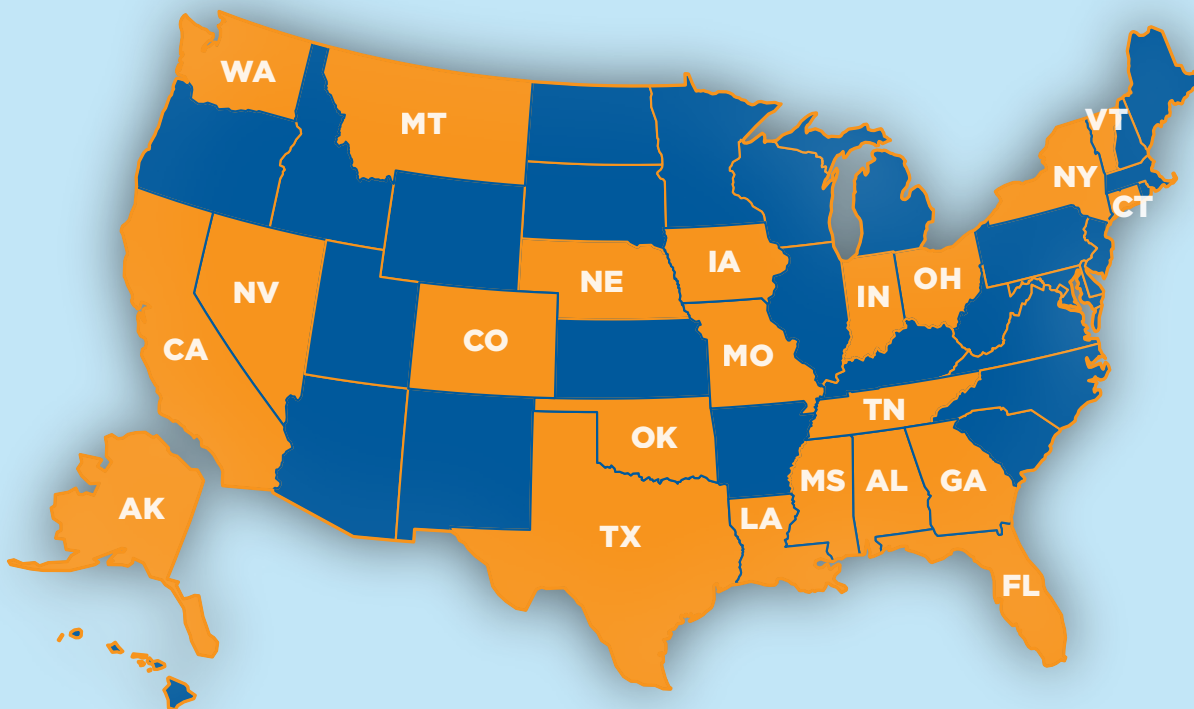


Connect via NACC State-Based Listservs!

NACC has recently launched state-based listservs in California, Florida, Georgia, Indiana, Missouri, Montana, Nevada, and Oklahoma. These are supplements to our national listserv. If you are a practitioner who would like to join your respective state list, please email Allison.Green@NACCchildlaw.org.

Call for State Coordinators! — Application Deadline: April 5, 2021

NACC is thrilled to announce we will be adding 10 more State Coordinators this spring. State Coordinators help lead NACC's expanded outreach and provide localized support to a growing network of child welfare attorneys. If you are in a state not already represented by a coordinator, we welcome your application! The position is a two-year minimum commitment. Please [click here](#) for more information and to submit your application!



Profile Update Reminder : If you haven't done so recently, please check your NACC Membership Profile and update it with your latest information and preferences. We have many NACC members and website visitors searching our directory looking for experts and networking opportunities.

Would you like to share something with the NACC Membership? [Send it to us!](#)

Forgot your username or password? It happens! Contact Membership@NACCchildlaw.org for a reset.



Thank you to our Platinum Lifetime, Gold, and Silver Members!

PLATINUM LIFETIME

| | | | | |
|------------------|-----------------|--------------------|-----------------|----------------|
| Candace Barr | Amanda Donnelly | Gerard Glynn | Allison Schmidt | Smith Williams |
| Catherine Begaye | Idalis Edgren | Yali Lincroft | Janet Sherwood | |
| Donald Bross | Leonard Edwards | Charles Masner | Yve Solbrekken | |
| Irma Carrera | Amanda Engen | Kathleen McCaffrey | Cynthia Spencer | |
| John Ciccolella | Donna Furth | Henry Plum | John Stuemky | |

GOLD

| | | | |
|--------------------|-----------------------|-----------------------|---------------------|
| Rosemary Armstrong | Josh Gupta-Kagan | Thailand Porter-Green | Dwayne Simpson |
| Larry Bossier | Michael Herrin | Brittany Radic | Dennis Smeal |
| Cameron Buhl | Penny Higginbottom | Deborah Reece | Shaunna Stallo |
| James Cargill | Kimberly Jordan | Jody Richter | Tim Stevens |
| Tamiko Chatman | Shalanda Miller | Francis Rio | Julia TenEyck |
| Jonathan Conant | Candice Novak | Karla Roisum | Tsinena Thompson |
| Jessica Elam | Angela Orkin | David Romero | Judy Waksberg |
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| Denise Glasgow | Melissa Paul-Franklyn | Bonnie Saltzman | Christopher Wu |
| Nicole Goodson | Michelle Placzek | Bob Schwartz | |

SILVER

| | | | |
|-----------------------------|----------------------|---------------------|-----------------------|
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| Robert Ackley | Michelle Ekanemesang | Paula Kaldis | Betty Pace |
| Tyrone Afrasan | Mary Evans-Battle | Alycia Kersey | Donita Parrish |
| Adams | Yewande Ewovan | Nicole Kilburg | Megan Peak |
| Jillian Aja | Holly Farah | Patricia King | DeVonna Ponthieu |
| W Charlton Allen | Lydia Fields | Sarah Kukuza | Suzanne Queen |
| Tanya Alm | Sheneshia Fitts | Denise LaFave Smith | Jennifer Rains |
| Sylvia Andrew | emmarie Foerster | Alicia Lenahan | Sean Ramsey |
| Kristen Antolini | Karen Freedman | LaShanda Lennon | Thereasa Rinderknecht |
| Kathleen Baker | Dawn Garrett | Susan Levin | Jenny Rose |
| Theresa Barr | Steven George | Natalee Levine | Greg Rosen |
| Linda Bergevin | Darice Good | Natalie Maier | Lisa Rutland |
| Crystal Bice | Sherry Goodrum | Kimber Marshall | Mahna Salter |
| Rebecca Browning | Tom Gordon | Charlotte Mattingly | Robin Sax |
| Elizabeth Bush | Chelcie Griffith | Sarah McElhinney | Angie Seimer |
| Baylee Butler | Joseph Gunn | Michelle McGrath | April Shy |
| Tjuana Byrd | Carey Haley Wong | Molly McIlvaine | Cheryl Smith |
| Susana Castillo-Littlejohn | Michele Hammond | Bruce McKinnon | Stephanie Sonzogni |
| Katherine Chadek | Emily Haskew | Margie McWilliams | L Alys Summerton |
| Tiffani Collins | Pamela Hawkins | Rossia Meranda | Lara Sundermann |
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| Misty Connors | Brian Herzberger | Karen Miller | Dave Tawney |
| M. Cook | Hollie Hinton | Nichelle Mitchem | Belinda Taylor |
| Chloe Corbett | Denise Hippach | Tony Mollica | Ariel Toft |
| Genylynn Cosgrove | Lorne Hobbs | Jessica Mongold | Laura Underwood |
| Tiffany Crouch Bartlett | Deanna Hogan | Ellen Morgan | Priscilla Upshaw |
| Alexis Dahlhauser | Bill Holt | Kacie Mulhern | Laura Van Zandt |
| John Davidson | JaNeen Hopkins | Lorelei Naegle | Charles Vaughn |
| Teal de la Garza | DeAnna Horne | Otha Nelson | Oma Velasco-Rodriguez |
| Misty Deatherage | Robert Hoyt | Karla Nelson | Kimberly Vincent |
| Judith del Cuadro-Zimmerman | Karen Hunt | Brittany Occhipinti | Judy Webber |
| Kathleen Dumnitrescu | Megan Hunt | Ann O'Connor | Timothy Whitham |
| David Dykas | Denise Hyde | Jane Okrasinski | Nicole Williams |
| | Lisa Johnson | Nadine Orrell | Christopher Wise |



Child Welfare Law Specialist Certification

Congratulations to Our Newest Child Welfare Law Specialists!



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Ginger Burton
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FORT SMITH, AR

Stephanie Barrow, JD, CWLS

Children's Law Center of California
MONTEREY PARK, CA

Danika Benjamin, JD, CWLS

Legal Aid of North Louisiana
SHREVEPORT, LA

Luwanna Brown, JD, CWLS

MHAS/Child Advocacy Program
LAKE CHARLES, LA

Kimberly Carrington, JD, CWLS

Carrington & Moore, LLC
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Attorney at Law
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Marjan Daftary, JD, CWLS

Children's Law Center of California
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Jeffrey Davis, JD, CWLS

Tennessee Department of Children's Services
CHATTANOOGA, TN

Ellie Duncan, JD, CWLS

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Children's Law Center of California
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Remington Law Firm, PLLC
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Carrie Mason, MA, PhD, JD, CWLS

Tennessee Court Improvement Program
NASHVILLE, TN

Lashawn Mikell, JD, CWLS

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Thomas Tebeau III, JD, CWLS

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Alexandra Vargo, JD, CWLS

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Children's Law Center of California
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**Megan Wintermantel,
M.Ed., MPP, JD, CWLS**

Children's Law Center of California
MONTEREY PARK, CA



COMING SOON!

NACC will be launching a new online certification platform in the next few months to streamline the CWLS application, recertification, and annual reporting processes. *Keep an eye out for more information later this spring!*

CWLS in the News and on the Bench

Newly Certified CWLS Katie Rooney Appointed Commissioner of Jackson County Family Court - Division 41

Congratulations to Katie Rooney, JD, CWLS, on her recent appointment to the Jackson County Family Court in Kansas City, Missouri! In her work prior to her February 2021 appointment, she served as Assistant Prosecuting Attorney in Greene County, Attorney for the Juvenile Officer in Jackson County, Family Court Division Coordinator for the Circuit Court of Jackson County, and most recently as pro bono attorney for Lathrop GPM, LLP. Her most recent work at the firm has centered on the representation of parents in the Family Court Treatment Program, while also having experience at the firm representing youth in juvenile delinquency matters and parents in TPR cases. “Katie Rooney is an experienced trial attorney who understands the concerns of all parties in a case, and who has devoted her legal career to matters involving juveniles,” said Presiding Judge J. Dale Youngs of the 16th Circuit Court of Jackson County, Missouri. “We are pleased that she will be joining the Jackson County Family Court as its newest commissioner.” Rooney attended the University of Missouri - Columbia, where she graduated with a BA in Political Science in 2001 and a JD in 2004. She was certified as a Child Welfare Law Specialist in January 2021 and appointed to the court in February. [Read the press release here.](#) Congratulations, Commissioner Rooney!

Arizona CWLS Jessica Dixon Appointed Commissioner on the Juvenile Bench of the Arizona Superior Court in Pinal County

Belated congratulations to Jessica Dixon, MS, JD, CWLS, on her full-time appointment to the Arizona Superior Court in October 2020. Dixon has been assigned to the juvenile bench in Pinal County. Prior to her appointment, she was an attorney at Hernandez, Scherb, and Dixon, PC, in Phoenix where her practice focused on the representation of parents and children in the child welfare system, particularly those with complex psychological needs. She also has prior experience as a solo practitioner in the field and, while attaining her JD, she served as a behavioral health technician working with patients in a crisis recovery unit in Tucson. Her colleagues have described her as compassionate, astute, thorough, extremely effective, and uniquely skilled. Regarding her direct representation work, colleagues remarked, “She is the type of attorney that we all hope to be like in trial,” and “She’s one of the best juvenile attorneys I’ve worked with.” No doubt her exemplary service and commitment will continue in her role on the bench! Dixon attended the University of Arizona where she graduated with a BS in Psychology and a JD in 2007. She went on to earn her MS in Psychology at Grand Canyon University in 2016. She was certified as a Child Welfare Law Specialist in 2014. Congratulations, Commissioner Dixon!

Get certified and join the CWLS community!

[Download the application and review additional information today.](#) [Discounted application fee](#) for NACC members: \$375 (Non-members: \$500). The application fee includes the exam and a hard copy of Child Welfare Law and Practice, 3rd Edition (shipped once the application and fee are submitted). ■

NACC

SIX-DAY DUAL CONFERENCE DENVER 2021

EARLY REGISTRATION THRU JUNE 30

Click to [register now](#) and save!

From Crisis to Innovation: Toward a Family-Centered Justice System

ONSITE CHILDREN'S LAW OFFICE CONVENING
FRIDAY, AUGUST 13, 2021

Hyatt Regency Denver
at Colorado Convention Center

ONSITE NATIONAL CHILD WELFARE LAW CONFERENCE
SATURDAY, AUGUST 14 AND
SUNDAY, AUGUST 15, 2021

Hyatt Regency Denver
at Colorado Convention Center

ONLINE NATIONAL CHILD WELFARE LAW CONFERENCE
MONDAY-WEDNESDAY,
AUGUST 16-18, 2021

THE 44TH NATIONAL CHILD WELFARE LAW CONFERENCE

Once again, the top leaders in child welfare law will come together – this time, both onsite and online!

NACC is committed to providing the highest quality legal education programs and networking events to strengthen and support child welfare legal professionals across the country. This continues to be a critical time for community, information-sharing, and dialogue as we redefine advocacy and legal representation during a public health crisis and a movement to end racism and bias in child welfare. We are balancing the gradual return of onsite gatherings with providing an alternative for attendees who need or prefer an online event.

Our **ONSITE** conference will be in Denver, Colorado, August 14–15, 2021, with our pre-conference sessions August 13, 2021. All onsite programming will be at the beautiful Hyatt Regency Denver at the Colorado Convention Center. Hotel rooms are available starting at \$169/night and can be [booked here](#). Onsite conference registration includes the online conference.

Our **ONLINE** conference will be August 16-18, 2021 in the comfort of your home or office... maybe the park. If an onsite conference is not possible due to public health concerns, the NACC conference will be entirely online August 16-18, 2021.

Our onsite conference content and online conference content will both be live. Our goal is to have exclusive content for the each of these conferences. Recordings of the online content will be available for up to a year.

Visit the [conference section](#) on our website for more information and to register.

Abstracts are Closed

The 2021 call for abstracts is closed. Our abstract workgroup is currently reviewing submissions.

Thank you to all who submitted! ■





Training

NACC's Online Red Book Training Course — Join the Spring Course Now!

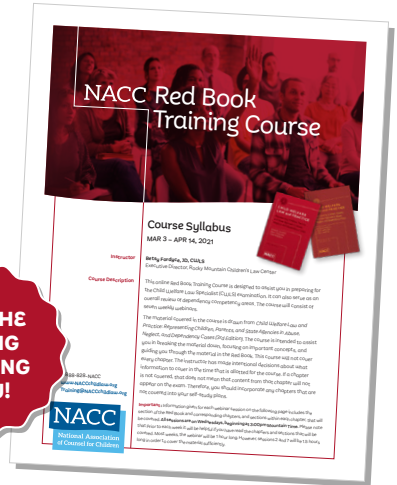
Join us for our Spring Red Book Training Course, from March 3rd through April 14th, 2021.

The Red Book Training Course is an indispensable asset to all attorneys aiming to improve their knowledge base and elevate their practice. The training covers major dependency practice competency areas and also includes exam preparation strategies and tools for those intending to become certified Child Welfare Law Specialists. The material covered in the course is drawn from *Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases (3rd Edition)*, (“the Red Book”). The course consists of seven weekly webinars. Participants can join the course live or watch/listen to recordings — all live sessions are recorded and participants will have access to the recordings for six months. Registration for the course also includes access to the electronic version of the Red Book for six months. Hard copies of the [Red Book](#) are available for purchase.

The registration fee is **\$200 per person for groups and NACC members** (\$100 for CWLS; \$275 for nonmembers). Registration is open through April 14, 2021 — [register here!](#)

NACC staff is ready to assist in registering a group for the course, ordering hard copies of the Red Book, and/or coordinating a cohort to become certified as CWLS. Please contact Daniel Trujillo, NACC Certification Director, at Daniel.Trujillo@NACCchildlaw.org for group registrations, additional information about the course, or CWLS certification.

Accredited for 9 hours of CLE in Colorado (50-minute hour). CLE approval in at least one state can streamline an attorney’s CLE application in another state. Check with your jurisdiction for details on simplified CLE applications and online/on-demand learning requirements.



Kristen Pisani-Jacques,
JD, CWLS
Training Director
Kristen.Pisani-Jacques@NACCchildlaw.org

Unable to attend the spring course?

Consider joining one of NACC’s two additional 2021 Red Book Training Course sessions:

- **SUMMER:** May 12th – June 23rd, 2021
- **FALL:** September 8th – October 20th, 2021

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Upcoming Member Webinars:

NACC March Member Webinar: Use of Psychiatric Medication in Foster Children: What Lawyers Need to Know

Thursday, March 25, 2021 | 1:00–3:30PM ET

Presenter: Martin Irwin, MD

[REGISTER HERE](#) 

The overmedication of children – especially those in the child welfare system – is a national problem. Psychiatric medications are frequently used for children as a non-specific treatment of behavioral or sleep problems or, alternatively, to medicate sadness, anger or worries that do not reach the level to be labeled a psychiatric disorder. It is not uncommon that a cocktail of multiple medicines will be used together. Many of the drugs are not approved by the federal government’s Food and Drug Administration (FDA) for these indications and have not been tested for either safety or efficacy in children. It is therefore important for lawyers who work with children in the child welfare system to understand the appropriate use of psychiatric medication, the benefits vs. risks of the common medications prescribed to children, and the alternative treatments.

This webinar will outline general principles of treatment with psychiatric medications, discuss appropriate use of medication that is not FDA approved, multiple medications, medication used for emergency behavioral control, and review some of the most used psychiatric medication in this population.

Accredited for 3 hours of CLE in Colorado (50-minute hour). CLE approval in at least one state can streamline an attorney’s CLE application in another state. Check with your jurisdiction for details on simplified CLE applications and online/on-demand learning requirements.

This webinar is FREE for NACC Members. Members, please log in with your member ID when you register for this event.

This webinar is \$40 for nonmembers. Nonmember webinar registrants will receive a \$40 credit toward NACC membership. **Tell your colleagues: [join NACC now](#) and receive 10+ webinars for \$100!**

Do you have questions about the use of psychiatric medication in your cases? The doctor is in!

Dr. Martin Irwin has generously made himself available to NACC members to consult on case questions surrounding the use of psychiatric medication on children. To contact Dr. Irwin to set up a consultation, please email him at martin.irwin@nyulangone.org.

► **Training** from previous page

Interested in Presenting at an NACC Member Webinar?



NACC is accepting submissions for its **2021 monthly member webinars**. NACC's monthly member webinars help us to *Promote Excellence* in the child welfare field by providing quality and comprehensive trainings to attorneys, judges, and other stakeholders who work with children and families. Such ongoing training enables NACC to support our members and ensure that all children, parents, and families in the child welfare system receive high-quality legal representation.

Throughout its training offerings, NACC seeks increase the diversity of presenters and presentation topics. NACC is committed to highlighting and elevating the voices of those individuals most impacted by the child welfare and delinquency systems, including youth, parents, and kin with lived expertise and those disproportionately impacted by systems involvement, particularly Black and Indigenous families.

Each webinar submission must include:

- a description of how the webinar will address or impact racial equity, disparity, or underserved populations; and
- how the voices and recommendations of individuals with lived expertise will inform or be integrated into the webinar.

Webinar submissions will be reviewed on a rolling basis. If your webinar is selected, NACC staff will contact you to discuss your submission further. If you have any questions, please contact Kristen Pisani-Jacques, NACC's Training Director at Kristen.Pisani-Jacques@NACCchildlaw.org.

Click to view a list of preferred topics, webinar requirements, and to submit your proposal!

NACC Non-Discrimination Policy

It is the policy of the National Association of Counsel for Children not to discriminate against any individual or group on the basis of race, culture, ethnicity, national origin, religion or religious beliefs, physical or mental disability or handicap, sex, sexual orientation, gender identity or gender expression, or age. NACC embraces diversity among its Board, staff, members, and volunteers. ■

► [Training](#) from previous page

Past Webinars Available to NACC Members

* THESE WEBINARS ARE OPEN TO MEMBERS AND NON-MEMBERS

Accredited for
CLE in Colorado

[Click here to access all webinars and CLE documents](#)

| | |
|--|-----------------------------------|
| <p>Crossover Youth: The Criminalization of Trauma Presenters: Brittany Mobley, JD • Naïké Savain, JD • Veena Subramanian, JD</p> | |
| <p>2020 in Hindsight: NACC's Child Welfare Law Year in Review Presenters: Allison Green, JD, CWLS • Kristen Pisani-Jacques, JD, CWLS</p> | |
| <p>Ethical Obligations for Children's Attorneys: Setting Professional Boundaries, Addressing Bias, and the Model Rules Presenters: Jill Malat, JD, CWLS • Erin McKinney, MSW, LICSW, CMHS</p> | Inclusive of 1.8 ethics hours |
| <p>Clearing the Path to Access Benefits for Transition-Aged Youth Presenters: LilCrystal Dernier, MS, MNM • Amy Harfeld, JD • Dan Hatcher, JD • Jasmine Snell, BS • Ruth White, MSSA</p> | |
| <p>Understanding Racial Trauma and Institutional Racism to Improve Cultural Responsiveness, Race Equity, and Implicit Bias in Child Welfare Cases * Presenters: The Honorable Aurora Martinez Jones, JD, CWLS • Tanya Rollins, MSW, CPS</p> | — |
| <p>Trauma-Responsive Skills for Lawyers – Part 2: Working with Clients in Crisis Presenter: Cynthia Bowkley, JD, CPPM, SE Advanced Student</p> | |
| <p>Meaningful Youth Engagement in a Virtual Legal World * Presenters: Shobha Lakshmi Mahadev, JD • Robert Latham, JD • Dani Townsend</p> | |
| <p>Don't Minimize the Moment: Truth, Reparatory Justice, and Healing for Black Families who are Descendants of Captive and Enslaved Africans in the U.S. * Presenter: Stephanie S. Franklin, JD</p> | |
| <p>Children and Families at a Crossroads: Client Centered Cross-Practice Representation of Undocumented Children Presenters: Melissa Paul-Franklyn, JD • Cristina "Tina" Romero, JD Jadera Ramirez-Garcia, JD, MSW • Jordyne James, LMSW</p> | |
| <p>Advocacy for Youth in Congregate Care during COVID-19 * Presenters: Jennifer Rodriguez, JD • Jenny Pokempner, JD • Tom Welshonce, JD</p> | |
| <p>Trauma-Responsive Skills for Lawyers During COVID-19 * Presenters: Rebecca M. Stahl, JD, LLM, SEP • Cynthia Bowkley, JD, CPPM, SE Advanced Student</p> | |
| <p>The Next Level: Appellate Practice in Child Welfare Cases Part I Presenters: Melissa Colangelo, JD • Abraham 'Abe' Sisson, JD</p> | |
| <p>The Next Level: Appellate Practice in Child Welfare Cases Part II Presenters: Melissa Colangelo, JD • Abraham 'Abe' Sisson, JD</p> | |
| <p>Zealous Advocacy During COVID-19: Practical Tips and Best Practices * Presenters: Jenny Pokempner, JD • Jennifer Rodriguez, JD • Chris Henderson, JD</p> | |
| <p>How to Use the Federal Reasonable Efforts Requirement to Advocate for Older Youth Presenters: Kristen Pisani-Jacques, JD • Jenny Pokempner, JD</p> | |



NACC Welcomes Christina Lewis and Justin Black!



Christina Lewis, JD
joins Team NACC
as Staff Attorney
Based in Louisiana



Justin Black
joins Team NACC as
Communications
Assistant
Based in Michigan

NACC is excited to announce that Christina Lewis, JD, joined the NACC team in January 2021 as Staff Attorney. Most recently Christina served as a public defender with the St. Charles Parish Public Defender's Office in Louisiana. During her twelve years as a public defender, Christina has represented adults charged with misdemeanors, served as the defense attorney for the St. Charles Parish Adult Drug Court, and represented juveniles charged with delinquencies in juvenile court. Christina also represented children in child welfare cases, but most of her career has been devoted to providing high-quality representation to parents whose children were removed from their custody due to abuse and/or neglect. Christina graduated from Louisiana State University, Paul M. Hebert Law Center with a Juris Doctor and Bachelor of Civil Law. Christina began her legal career as a judicial law clerk with the Louisiana Third Circuit Court of Appeal for the Honorable Marc T. Amy for three years. Christina is licensed to practice in Louisiana where she currently resides.

Congratulations to Justin Black who joined the team at NACC in December 2020 to support and build NACC's communications and marketing. Previously Justin developed policy recommendations while working with the National Black Child Development Institute resulting in a publication titled *The State of the Black Child Report Card: Washington State*. Following this, he became a Federal National Youth in Transition Database (NYTD) reviewer and member of the federal team to collect data and assess the outcomes of youth in foster care. He also has 12 years of lived experience in the child welfare system and is a recent graduate of Western Michigan University, where he studied public relations and African studies. Born in Detroit, Michigan, Justin studied urban and community development as well as political and economic philosophy in countries such as Rwanda, Uganda, Senegal, and South Korea. He aspires to challenge and expand the ideologies of how to build prosperous communities through interdependence and entrepreneurship.

Welcome aboard, Christina and Justin! ■

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TOGETHER WE ARE

The National Association of Counsel for Children is dedicated to advancing the rights, well-being, and opportunities of children impacted by the child welfare system through high-quality legal representation.

[#Promoting Excellence](#) [#Building Community](#) [#Advancing Justice](#)

The Guardian is an NACC publication.
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