



*Making the Legal System Work for Children and Parents*

## Implementing FJI System Attributes

### Attribute 5: Support & Oversight

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

#### Attribute 5: Support & Oversight

- Define clear roles and expectations for attorneys and all members of the multidisciplinary team.
- Provide training and education opportunities.
- Provide oversight and performance evaluation.
- Provide the opportunity for clients to provide feedback on representation.

#### Meeting This Attribute

Child welfare law is increasingly complex and specialized and implicates one of the most fundamental liberty interests recognized by the United States Supreme Court—a parent’s rights to the care, custody, and control of her children,<sup>1</sup> as well as a child’s right to be raised by his or her parents. Because the stakes are so high for parents and children affected by governmental intervention, high-quality legal representation is essential to preserve their rights and well-being. When oversight, accountability, and training are incorporated into attorney practice, the quality of legal representation improves.<sup>2</sup>

##### *Attorney practice standards*

Creating and/or adopting performance standards is an important first step in providing clear, consistent roles and expectations for attorneys working in the child welfare court system. Although more than half of states have some form of performance standards for attorneys in child welfare practice, FJI recommends all jurisdictions adopt performance standards for

attorneys in child welfare practice that are consistent with the [ABA Standards of Practice](#) and the [FJI Attributes of High-Quality Legal Representation](#). Performance standards are key to conducting meaningful evaluation of attorney practice. This is the case regardless of whether the systems of representation are statewide, or county based.

##### *Attorney evaluation*

Ongoing evaluation of attorney performance ensures supervisors can provide targeted training and professional development opportunities to achieve high-quality performance. Attorney evaluation should be a transparent process for holding attorneys accountable to relevant standards of practice.

Ideally, supervising attorneys can provide regular supervision and feedback to children’s and parents’ counsel through case conferencing, court supervision, client feedback, and regular work-product review. However, outside of metropolitan areas, most jurisdictions throughout the country do not have

the benefit of independent legal offices staffed by multidisciplinary teams, including supervisory staff.

When attorneys for parents and children are independent contractors or panel attorneys appointed by the court, attorney evaluation should be led by an independent administrator who can evaluate attorney performance. Evaluation may include feedback from judges or other legal stakeholders, but as a rule, judges and adverse counsel should not be the primary source of feedback on attorney performance.

Part of knowing whether attorneys are effective is by understanding the client's experience. Therefore, attorney evaluation should include a process for clients to provide feedback on the representation they received. For example, surveys can be sent to former clients or provided to clients at court. This method of evaluation can be used by attorney law offices as well as solo-practitioners who want feedback. Examples of questions to ask include:

- Was the attorney available to the client?
- Did the attorney raise and resolve significant issues for the client?
- Did the attorney participate in out of court meetings?
- Did the attorney address issues such as where the child was placed and family time/visitation?
- What was the client's overall level of satisfaction with the representation?

FJI recommends jurisdictions include a process by which clients provide feedback on representation as an essential part of the evaluation and assessment of attorney performance in law office settings, and individual self-assessment for solo practitioners.

#### *Attorney training and support*

FJI recommends attorney supervisors, as well as administrative bodies that facilitate independent attorney appointments, support and encourage professional development and ongoing training to enhance attorney performance. Some organizations or jurisdictions provide opportunities for mentoring, technical assistance, shadowing and sitting second chair on cases, case consultation, and regular in-house training for attorneys and other multidisciplinary staff. Attorneys who practice in rural areas or outside of a law office setting may feel isolated

from ongoing support. For attorneys who are not part of an institutional child welfare law office, some jurisdictions require a minimum number of training hours, years of specialized experience and/or working with a mentor before receiving appointments. Providing this level of infrastructure and support results in enhanced job satisfaction, leading to greater levels of retention, and higher quality legal representation.

## Examples of Good Practice

### North Carolina Office of Parent Representation

The North Carolina Office of Parent Representation is part of the state Office of Indigent Defense Services (IDS). IDS was created by the NC General Assembly in 2000 to oversee the provision of legal representation to indigent defendants and others entitled to counsel under North Carolina law.

*Attorney training and support.* The Office of Parent Representation was created as a department within IDS. Its mission is to ensure effective legal representation of indigent parents involved in abuse/neglect/dependency and termination of parental rights proceedings. The office provides training, support, and guidelines to parent attorneys; advocates for systemic and legislative changes in the child welfare system; and assesses the delivery of legal services to indigent parents across the state.

The Office of Parent Representation has created comprehensive performance guidelines for attorneys representing parents in abuse/neglect/dependency and termination of parental rights cases. The guidelines serve as a training tool and a resource for new and experienced attorneys. In addition, the office maintains a brief bank, training materials on a comprehensive list of topics, legislative and case law updates, a listserv and regular training offerings through a partnership with the University of North Carolina School of Government.

### Massachusetts Committee for Public Counsel Services (CPCS)

CPCS, the public defender agency for Massachusetts, provides legal representation to children and indigent parents in child welfare and other matters through its Children and Family Law Division (CAFL). Like other CPCS divisions, CAFL uses a mixed model

to provide representation to clients. CAFL has 10 staffed multidisciplinary trial offices and more than 800 certified private attorneys, with private attorneys handling about 85% of all assignments. There is also a staffed appeals office and approximately 125 private attorneys who represent clients in the appeals and supreme judicial courts.

CAFL has established detailed performance standards for lawyers handling child welfare/state intervention cases. These standards are used in training, support, and oversight of private and staff attorneys.

*Attorney training.* All new CAFL attorneys, private and staff, are provided extensive training, beginning with a seven-day program focused on the early stages of a child welfare case, including a day-long mock temporary custody hearing. Attorneys also attend a half-day seminar on medical treatment decisions for children in the state's care. Several months after their initial training, all attorneys participate in a two-day training program focused on trial preparation, practice, procedure, and dispositional and settlement options. Attorneys are expected to attend continuing legal education programs every year, which are typically provided or overseen by CAFL's Training Unit, which regularly offers trainings on other areas of law and practice (including multi-day training programs for appellate attorneys). The Training Unit also maintains a CAFL practice manual and other tools and provides legislative, case law, and practical updates.

*Attorney support and oversight.* Upon successfully completing the seven-day training and becoming certified to accept CAFL trial court assignments, each attorney is assigned an attorney mentor. Mentors are compensated hourly. They provide support, feedback, technical assistance and evaluation for their mentees for the first few years of the new attorney's practice. Support includes in-person and phone meetings, file reviews, and court observation. CAFL also contracts with an experienced attorney in each region (the resource attorney) to serve as the local liaison to the court, local service providers, and panel attorneys, and the CAFL Trial Panel Support Unit. Resource attorneys arrange at least eight hours annually of approved trainings in their regions. They also have "office hours" when they meet with any private attorney to provide advice, case analysis, and consultation on practice issues. Attorneys in CAFL's Trial Panel Support Unit oversee this entire

operation. They meet regularly with mentors and oversee mentors' work. They also oversee the work of resource attorneys. In addition, they directly support and oversee all panel members and are available for case consultation.

CPCS staff offices are each managed by an attorney-in-charge and the larger offices also have one or more supervising attorneys who support and guide the trial attorneys. Each office has staff social workers who work with clients and are part of the legal team providing legal representation to the children and parents in child welfare/state intervention cases. The CAFL managing director oversees the staff offices and works with the CAFL Trial Panel Support Unit and the CAFL Training Unit to ensure clients receive high-quality legal representation.

### **Colorado Office of the Child's Representative (OCR)**

OCR is a state agency mandated to provide competent and effective best interests legal representation to children involved in the Colorado court system. OCR was created by the General Assembly in 2000 to improve representation for Colorado's most vulnerable children by establishing minimum practice standards and providing litigation support, accessible high-quality statewide training, and oversight of the practice. OCR oversees attorneys that provide legal representation as guardians *ad litem* (GAL), counsel for children in dependency and neglect proceedings, and child legal representatives (CLR). OCR trains all of its attorneys on the law, social science research, child development, mental health and education issues, and best practices relating to issues impacting children involved in court proceedings.

The Chief Justice of the Colorado Supreme Court also issued a "Chief Justice Directive" (CJD), that lays out the responsibilities and statutory requirements of OCR in administering the office as well as in providing training, support and oversight to its contract attorneys throughout the state of Colorado.

*Attorney training.* OCR provides an initial two-day training for attorneys upon offer and acceptance of a contract. Additionally, it provides Core Competency trainings twice a year for all contracted attorneys. OCR employs a full-time training director and holds weekly online trainings as well as trainings on discreet areas of the law and practice. OCR also contracts

with the Colorado Department of Human Services (CDHS) to receive IV-E training dollars in support of its training program. These are available to states with a potential federal funding match at 75% of the Title IV-E penetration rate.

*Attorney support, evaluation, and oversight.* OCR assigns all contract attorneys a staff attorney liaison to provide support and oversight. Attorney liaisons provide support, feedback, technical assistance and evaluation for their assigned attorneys. Support includes open communication, in-person meetings, and court observation. OCR staff attorneys are expected to travel to jurisdictions across the state to observe attorney court performance, meet with attorneys personally, and engage with local stakeholders regarding attorney performance. OCR contracts with attorneys with expertise in various areas of the law to consult on cases with specialized issues. The office also conducts “case rounds” sessions in which attorneys meet and work through case issues that may be difficult or require additional feedback, input, or advice.

As part of the evaluation process, OCR requires attorneys to identify clients who will provide feedback on the representation they received.

### **Colorado Office of Respondent Parent Counsel (ORPC)**

The ORPC is an independent governmental agency within the Colorado Judicial Branch vested with overseeing and administering parent representation. ORPC’s mission is to protect the fundamental right to parent by providing effective legal advocates for indigent parents in child welfare proceedings.

*Attorney support and oversight.* ORPC operates under a “Chief Justice Directive” (CJD) that outlines the responsibilities and statutory requirements of ORPC in administering the office and providing training, practice guidelines, support, and oversight to its contract attorneys throughout Colorado. ORPC also employs a case strategy director and a social work coordinator to provide additional support for its attorneys.

*Attorney training.* ORPC employs a full-time training director to ensure its attorneys receive high-quality, regular training opportunities on the full array of child welfare topics. ORPC also contracts with the

## **Technical Assistance**

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

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

Colorado Department of Human Services (CDHS) to receive IV-E training dollars in support of its training program. Additionally, ORPC holds an annual conference for all of its attorneys in which it invites proposals from experts around the country.

### **Arkansas Attorney ad Litem Program**

The Attorney Ad Litem Program provides representation to all children involved in dependency-neglect cases in all jurisdictions in Arkansas. The program is comprised of 34 full-time employees and approximately 40 part-time contractors, but the number of contractors varies based on the needs of the program and caseloads.

*Attorney training.* Administrative Order 15.1 of the Arkansas Supreme Court sets out qualifications and standards of practice for attorneys *ad litem* (AAL) in dependency-neglect cases. These requirements include an educational requirement of not less than 10 hours of initial educational hours in the areas of child development; dynamics of abuse and neglect; attorney roles and responsibilities, including ethical considerations; relevant state law, federal law, case law and court rules; family dynamics; and Division of Children and Family Services’ policies and procedures. Following the initial 10 hours of education, at least four hours of continuing legal education covering these topics are required annually.

Beyond initial qualification training, the AAL program provides opportunities for regular on-going training for attorneys employed or contracted with the program through half-day quarterly training opportunities and an annual 2-day Fall Conference. In addition to these training opportunities, the Court Improvement Program sponsors an annual 2- or 3- day “Children in the Courts Conference” in the spring of each year which all program attorneys are required to attend.

*Attorney support and oversight.* Each attorney employed or contracted with the program is assigned an experienced AAL as a mentor for the first year and given a clinical plan outlining their responsibilities and additional requirements as they transition into the Program.

Under Administrative Order 15.1, AAL caseloads are capped at 75 cases for full-time attorneys and at 25 cases for part-time contractors. AAL program staff provide leadership and oversight for all attorneys. Program staff travel across the state to observe courtroom performance and meet with attorneys personally to provide feedback or other assistance as needed.

*Attorney evaluation.* The AAL program has implemented a comprehensive evaluation process that includes the following factors: self-reported data comparison to state averages; key court performance measures data; a random file review; a random sample of survey/interviews with stakeholders; a random sample of client surveys/interviews; courtroom observation, attorney self-evaluation, and other interactions with the AAL by program staff.

#### **Endnotes**

1. *Troxel v. Granville*, 530 U.S. 57 (2000).
2. Leslie Starr Heimov, Amanda George Donnelly & Marvin Ventrell, *The Rise of the Organizational Practice of Child Welfare Law: The Child Welfare Law Office*. 78 U. COLO. L. REV. 1097, 1109 (Summer 2007).



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