

ATTACHMENT C-1

The Unified Court System Enhanced Quality Legal Representation Services Plan

SFY 2021-22

These instructions describe the process to be followed by the Unified Court System's (UCS) Office of Court Administration (OCA) to obtain federal reimbursement under title IV-E of the Social Security Act for allowable expenditures associated with independent legal representation for eligible children in child welfare legal proceedings.

Pursuant to a policy change adopted by the Children's Bureau, an Office of the Administration for Children and Families of the U.S. Department of Health and Human Services, allowable administrative expenses associated with providing independent legal representation in child welfare proceedings for a title IV-E foster care candidate (pre-placement) and a title IV-E foster care (in-placement) child are eligible for title IV-E reimbursement.

Prior to this policy change, title IV-E federal reimbursement for legal representation costs in child welfare matters was available only for the cost of title IV-E child welfare agency attorneys.¹ States, namely the title IV-E agency may now access title IV-E funding for certain eligible costs of independent legal representation for title IV-E eligible children "to prepare for and participate in all stages of foster care related legal proceedings."² The goal is to use, at minimum, a portion of this funding to enhance the quality of publicly funded independent legal representation for eligible children and their parents in alignment with applicable standards and best practices.

To that end, to access this newly allowable revenue source for eligible expenditures associated with an attorney for the child representation, the UCS has entered into this memorandum of understanding (MOU) with New York State's title IV-E agency, the New York State Office of Children and Family Services (OCFS). Under the terms of the MOU, the OCA will be responsible for submitting all claims to OCFS on behalf of the UCS attorney for the child's program. OCA will submit claims to OCFS, as prescribed in the MOU and Attachment B.

Additionally, UCS, must develop an enhanced quality legal representation services three-year plan. As part of this plan, UCS must commit to providing enhanced training on child welfare proceedings, best practices, or attendant legal requirements for attorneys representing children in child welfare proceedings. Such training must occur within the first year that this funding is available and be offered on a recurring basis for the duration of the MOU.

¹ Mark Hardin, "Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview," *Child Law Practice Today* (American Bar Association, February 25, 2019), https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/

² *Technical Bulletin - FAQs on Independent Legal Representation*, <https://www.acf.hhs.gov/cb/resource/technical-bulletin-faqs-legal-representation>; see also above resource.

Additionally, UCS must commit to complete at least one new additional action or actions to increase quality representation for the child as are listed below, to be completed for the term of the governing MOU.

The UCS may opt to modify its proposed plans throughout the duration of the three-year period.

Procedure for Enrollment

To participate in this funding opportunity for representation of attorneys for children in child welfare matters, the UCS must submit a quality enhancement plan as described below, consistent with the terms of the MOU between OCFS and the UCS. In the event the UCS does not submit a quality enhancement plan as agreed upon in the MOU, federal reimbursements will be halted until such time an approved plan is received by OCFS. The OCA may claim eligible expenses while the quality plan described herein is under development.

Plan Required Content: Approved plans will include at least two major components as well as reporting requirements.

Quality Enhancement: First, each approved plan must include at least one action item designed to enhance the quality of attorneys for the child representation in child welfare matters.

Training: Second, each plan must include a program to enhance training for attorneys who represent for children in child welfare proceedings.

Reporting: OCA will be required to produce annual reports that assess and document how title IV-E funds have been used to improve the quality of representation.

Plan Development:

Final Plan Submission and Implementation: The OCA will submit the UCS plan for quality enhancement for attorneys for children representing children in child welfare legal proceedings to OCFS for incorporation into the MOU.

The UCS shall use the form below as a template for the plan.

Attachment C-1

**Enhanced Quality Legal Representation Services Plan
SFY 2021-22**

**Description of Required Enhanced Training Activities including
Outcomes, Performance Target ,and Strategy**

Description of the proposed training, including populations to be trained, timeline, frequency of training, and a short description of the content:

Description of desired outcomes from training:

Description of proposed methods to evaluate the effectiveness of training in meeting the desired outcomes

Description of estimated numbers of persons to be trained and target audience:

**New Quality Legal Representation Services Enhancements
(to be Implemented in Addition to Training)
Including Outcomes, Performance Target, and Strategy
Must Include *At Least One* Below
Select All That Apply**

Option 1: Additional Social Workers and/or Peer Advocates for Children

Description of the plan to add new social workers and/or peer advocates to serve children, including: the number of new social workers and/or advocates; the required qualifications for such person (e.g., professional licensure or other minimum qualifications); the targeted populations they will serve; the estimated number of individuals to be served overall; and whether the new social workers and/or advocates are to be directly hired by the governmental entity or contracted for:

Option 2: Reasonable Attorney Caseload

Description of population covered (attorneys for the child or attorneys for parents):

Description of current attorney caseload, including any existing mechanism for monitoring caseloads, if applicable:

Description of desired outcomes for achieving and/or maintaining reasonable attorney caseloads and how such actions will lead to increased quality representation:

Description of proposed methods to evaluate caseloads on a continual basis:

Description of proposed methods to evaluate how efforts to achieve and/or maintain reasonable attorney caseload increase quality representation provided to children or parents, as applicable:

Option 3: Implementing Other Measures to Enhance Quality Representation

Description of population covered:

Description of the proposal for other measures to enhance quality representation:

Description of desired outcomes for and how such actions will lead to increased quality representation:

Description of proposed methods to evaluate increased quality representation under this plan on a continual basis:

Enhanced Quality Legal Representation Services Plan Attestation

Name of Agency Providing
Enhanced Quality Legal
Services:

Approval Agency:

Name of Enhanced Quality
Legal Service Activities
Completed:

Date Completed:
Attestation Statement and
Signature

of Children Served During
Review Period:

of Adults Served During
Review Period:

**Review
Period:**
