



TITLE IV-E REIMBURSEMENT for Lawyers Representing Children, Parents, and Pre-Petition Prevention Opportunities

This Court Leadership Brief describes reimbursement opportunities and provides the relevant resources and citations for state courts and partners to take full advantage of the reimbursement opportunities.



Reimbursement is available for courts, court partners, and tribes through the Families First Prevention Service Act (FFPSA) and Title IV-E in these areas of prevention.

Pre-Petition Legal Advocacy: Funding is available to reimburse expenses for attorneys, paralegals, social workers, peer partners, investigators, support staff, and overhead for independent child and parent legal representation prior to the filing of a dependency petition.

Building a Multidisciplinary Legal Team: The role of social workers and peer mentors in representing parents and children could be eligible for reimbursement when a multidisciplinary team addresses prevention. Funding is available for time-limited prevention services for mental health, substance abuse disorder, and in-home parent skill-based programs for children or youth who are candidates for foster care, pregnant or parenting youth in foster care, and the parents or kin caregivers of those children and youth.

FEDERAL GUIDANCE

ACYF-CB-IM-21-06: Utilizing Title IV-E Funding to Support High Quality Legal Representation for Children and Youth who are in Foster Care, Candidates for Foster Care and their Parents and to Promote Child and Family Well-being, Administration for Children and Families

Child Welfare Policy Manual for Title IV-E, Section 8, Children's Bureau

Planning Title IV-E Prevention Services: A Toolkit for States, Office of the Assistant Secretary for Planning and Evaluation

Technical Bulletin – Frequently Asked Questions: Independent Legal Representation, Administration for Children and Families

RESOURCES FROM NATIONAL ORGANIZATIONS: Guidance for Legal Representation and
Multidisciplinary Teams

AMERICAN BAR ASSOCIATION

Prepetition Legal Representation

Legal Representation in Child Welfare Proceedings Infographic

Providing Parents Multidisciplinary Legal Representation Significantly Reduces
Children's Time in Foster Care

**AMERICAN BAR ASSOCIATION AND NATIONAL COUNCIL OF JUVENILE AND
FAMILY COURT JUDGES**

Supporting Early Legal Advocacy Before Court Involvement in Child Welfare Cases

CASEY FAMILY

How can pre-petition legal representation help strengthen families and keep
them together?

How is pre-petition legal representation critical to the continuum of legal
advocacy?

Legal Representation & Multidisciplinary Team, includes audio presentation

CHILD WELFARE INFORMATION GATEWAY

Multidisciplinary Teams in Child Abuse & Neglect Investigations

LAW eCOMMONS

New Title IV-E Dollars for Child and Parent Legal Representation Presents a
Tremendous Opportunity to Improve Outcomes for Families

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

News You Can Use: Title IV-E Child Welfare Funding for Legal Representation
Updates, Sep 2020 webinar

NATIVE AMERICAN RIGHTS FUND & NATIONAL INDIAN LAW LIBRARY

Title IV-E Tribal Resources & IGA Examples

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NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN

Title IV-E Funding for Legal Representation

U.S. Children's Bureau Permits Funding for Child and Parent Legal Representation

Since December 21, 2018, the U.S. Department of Health and Human Services' Children's Bureau has announced three revisions to the Child Welfare Policy Manual. The first permitted states to receive federal Title IV-E funding reimbursement for administrative costs of providing "independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care and his/her parent." The policy was subsequently updated to include tribal representation, and finally, it was updated to cover the costs of paralegals, social workers, peer partners, investigators, support staff, and overhead for independent child and parent legal representation.

OVERVIEW

The Children's Bureau Child Welfare Policy Manual section 8.1B was modified as follows:

QUESTION 30: May a title IV-E agency claim title IV-E administrative costs for attorneys provide legal representation for the title IV-E agency, a candidate for title IV-E foster care or a title IV-E eligible child in foster care and the child's parents to prepare for and participate in all stages of foster care related legal proceedings?

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

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

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On July 29, 2019, the Children's Bureau clarified that tribes are also eligible for Title IV-E funding:

QUESTION 31: Are title IV-E administrative costs for the legal representation provided by agency attorneys and for independent legal representation of children and parents in all stages of foster care related legal proceedings available to tribes and public agencies that have an agreement under section 472(a)(2)(B)(ii) of the Act?

ANSWER: Yes. A title IV-E agency that has an agreement with a tribe or any other public agency under section 472(a)(2)(B)(ii) of the Act may claim title IV-E administrative costs for legal representation provided by tribal or public agency attorneys under the agreement in all stages of foster care related legal proceedings. The title IV-E agency may also claim administrative costs for independent legal representation provided by an attorney for a candidate for title IV-E foster care or a title IV-E eligible child in foster care who is served under the agreement, and the child's parents, to prepare for and participate in all stages of foster care related legal proceedings.

Finally, on April 21, 2020, the Children's Bureau provided further instruction about the scope of legal representation costs that are eligible for reimbursement:

QUESTION 32: Does the policy at CWPM 8.1B #30 allow a title IV-E agency to claim title IV-E administrative costs of paralegals, investigators, peer partners or social workers that support an attorney providing independent legal representation to a child who is a candidate for title IV-E foster care or is in title IV-E foster care, and his/her parent, to prepare for and participate in all stages of foster care legal proceedings, and for office support staff and overhead expenses?

ANSWER: Yes, the policy at sections 8.1(B) and (C) permits a title IV-E agency to claim such title IV-E administrative costs to the extent that they are necessary to support an attorney in providing independent legal representation to prepare for and participate in all stages of foster care legal proceedings for candidates for title IV-E foster care, youth in foster care and his/her parents. The costs must be consistent with federal cost principles per 45 CFR Part 75 Subpart E. The title IV-E agency must allocate such costs so as to assure that the title IV-E program is charged its proportionate share of costs.

WHY IS IV-E FUNDING FOR CHILDREN’S AND PARENTS’ COUNSELS IMPORTANT?

The purpose of the new IV-E funding for children’s and parents’ lawyers is to invest in improving legal representation for children and parents. High-quality legal representation for children and parents has many benefits, among them:

- promotes timely family reunifications and use of kinship care, ensures a well-functioning child welfare system,
- gives judges the information they need to make informed decisions in court cases involving children and families,
- ensures parties’ rights are protected, their voices are heard in court, and the legal system treats them fairly,
- promotes greater understanding of the court process by parties,
- saves the system money, and
- produces positive case outcomes for parties by increasing their presence and participation in court.

Leveraging IV-E funding can help promote high-quality legal representation of children and parents in child welfare proceedings. A recent assessment of the impact of funding changes on the quality of legal representation in California found changes in funding for attorneys directly affected factors that influence representation quality, such as attorney recruitment and retention, multidisciplinary legal practice, caseloads, workload per case, and case delays. A landmark 2019 study found providing parents multidisciplinary representation in child welfare proceedings significantly improved case outcomes. Adequately funding legal representation can positively influence these and other factors that may be preventing attorneys from representing clients at the highest level.

TITLE IV-E FOR LEGAL REPRESENTATION RESOURCES

Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview, ABA Center on Children and the Law

Questions and Answers: Federal IV-E Reimbursement for High-Quality Legal Representation for Children and Parents, Family Justice Initiative

Leveraging Federal IV-E Funding to Support Child and Parent Representation, ABA & NCJFCJ

Map of States Claiming IV-E Funds for Attorneys for Children & Parents

Leveraging Title IV-E to Advance High-Quality Legal Representation & Training, NACC

New Federal Funding Source for Court-Appointed Counsel in Child Protection Cases, National Judicial Opioid Task Force

TITLE IV-E REIMBURSEMENT for Lawyers Representing Children, Parents, and Pre-Petition Prevention Opportunities

FEDERAL GUIDANCE AND COMMUNICATIONS

- Civil Legal Advocacy to Promote Child and Family Well-being, Address the Social Determinants of Health, and Enhance Community Resilience**, IM 21-02, Children's Bureau
- Engaging, Empowering, and Utilizing Family and Youth Voice in All Aspects of Child Welfare to Drive Case Planning and System Improvement**, IM 19-03, Children's Bureau
- High Quality Legal Representation for All Parties in Child Welfare Proceedings**, IM 17-02, Children's Bureau
- High-Quality Legal Representation in Child Welfare Proceedings**, Children's Bureau Express
- How Attorneys and Judges Help Strengthen Families**, NACC's *The Guardian*
- Strengthening the Child Welfare System for America's Children**, White House Executive Order
- Title IV-E Foster Care Eligibility Reviews Fact Sheet**, Children's Bureau
- Utilizing Title IV-E Funding to Support High-Quality Legal Representation and Promote Child and Family Well-Being**, Information Memorandum 21-06, Children's Bureau

OTHER RESEARCH

- A Child's Right to Counsel: A National Report Card on Legal Representation for Abused and Neglected Children (4th Edition)**, First Star Institute and Children's Advocacy Institute
- Civil Legal Aid Helps Keep Families Together and Out of the Child Welfare System**, NLADA and the Justice in Government Project
- Evaluation of the Washington State Dependent Child Legal Representation Program 2021**, Washington State Center for Court Research
- Expediting Permanency: Legal Representation for Foster Children Palm Beach County**, Chapin Hall Center for Children
- Just Research Special Topic: Foster Care**, NLADA and the Justice in Government Project
- Key Studies on How Legal Aid Helps Keep Families Together and Out of the Child Welfare System**, The Justice in Government Project
- National Quality Improvement Center on the Representation of Children in the Child Welfare System (QIC-ChildRep)**, NACC, University of Michigan Law School, and the Children's Bureau



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