



# INDICATORS OF SUCCESS

For

Parent Representation

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## Letter from Region VI CIP Directors

Dear CIP Colleagues:

It is with great pleasure that the Administration for Children Youth and Families (ACYF)'s Federal Region VI states (Louisiana, Oklahoma, Arkansas, New Mexico and Texas), the federal Region VI staff in Dallas and the ABA Center on Children and the Law's Parent Representation Project commend the attached Indicators of Success for Parent Representation for your consideration and possible use in your CIP CQI work.

These indicators flow from a seminal (and first ever) convening on September 11-12, 2012 of the Region VI states CIPs, their federal partners from the regional office, and a multidisciplinary group of stakeholders from each state in Norman, Oklahoma for *The Importance of Improving Representation for Parents in the Child Welfare System: A Leadership Forum for Child Welfare Stakeholders*.

The forum offered an opportunity for the Region VI states to share information about work the states were doing around parent representation and to learn from a faculty of national experts about the importance of competent, zealous parent representation in achieving reduced lengths of stay in foster care and more stable placements and reunifications.

All of the states' leadership left the forum with a burnished appreciation of the importance of quality parent representation and mini strategic plans for CIP work when they got home. One common denominator across the states was an identified need for indicators of quality parent representation that could be used in the states' CIP CQI work. To that end, the Region VI states, in collaboration with our federal partners and ABA agreed to draft and test quality indicators to the extent possible for their efficacy.

Our Region VI work over many months and teleconferences resulted in a number of indicators which are presented here for your consideration. After the final drafting of the indicators, the states each agreed to pilot some of the measures for one year to test their validity and to help ensure more reasonable reliance on the Indicators as useful tools in the CIP CQI process. Each of the states took different approaches to using the Indicators to analyze their usefulness for other CIPs.

### Texas

In the fall of 2013, a mid-size county in Texas began an innovative project to provide legal representation to parents involved in child protective services (CPS) cases through contract agreements with local law firms. The contracts provided for a flat monthly fee and a 50-case cap for one year, which began in December 2013. In July, 2014, the Texas Court Improvement Program began an evaluation project to 1) identify strengths and weaknesses of the model; 2)

make recommendations for improvements to the model; and 3) assess the feasibility of replication in other jurisdictions. The evaluation included interview and file reviews against locally adopted processes and standards of representation, as well the Indicators of Success for Parent Representation, developed in partnership with the American Bar Association Center on Children and the Law. The evaluation covered the first six months of the project and concluded that in a few short months, the model had already improved the quality of representation for parents. The model appeared to promote a self-selecting process where attorneys who are not necessarily driven by financial gain were willing to take on the contracts, which in turn resulted in the attorneys putting in the hours required to appropriately advocate for their clients. It did not bear out, as was the initial concern, that attorneys would do only the bare minimum since they were not being paid more for extra hours. The size of the county and of the project also influenced the performance in that it brought informal pressure to provide high quality representation as it would be obvious or well-known to others when or if legal representation was lacking. It improved rapport and relationships between the lawyers and the social workers because the “team” working on behalf of parents was smaller and each became familiar with work styles and attitudes of the others. The model reduced continuances and delays making time-certain docketing more feasible. Benefits of the flat contract rate seem to outweigh the negatives as it reduced many of the perverse incentives of hourly practice, including demands for jury trial on termination of parental rights. Larger firms also seemed better able to endure the financial situation more easily than smaller ones simply because they had more resources available to spread the work as well as financial shortfalls. The project appears to have the potential to control costs while moving cases toward resolution in a timely manner, although the project has not been evaluated to determine whether cases are resolved sooner than they were before the project was initiated.

### **Oklahoma**

Since the Parent Representation meeting in 2012, Oklahoma has been working on proposed standards for Parent Representatives. We used the ABA, Iowa and Arkansas models to develop Standards for Oklahoma. They’ve been approved at every level, we are now waiting the final approval from the Oklahoma Supreme Court. The other changes in Oklahoma involve getting a statewide standardized contract for attorneys representing parents and children in juvenile court. This is significant in that across the state individual courts awarded contracts that varied so much that it was hard to set a budget and attorneys weren’t motivated to move the cases if they could make more money having the case open.

### **Louisiana**

The Louisiana CIP has long recognized the importance of strong parent representation in achieving improved outcomes for children and families in the child welfare system. The

Louisiana CIP first conducted a CIP training focused on parent representation in 2007. Since that time, the Louisiana Supreme Court and the CIP actively participated in a legislatively created Task Force on Legal Representation in Child Welfare Proceedings. Since the creation of the Task Force, Louisiana has moved from an ad hoc system of parent representation to a statewide program with administrative oversight by a statewide Louisiana Public Defender Board and the implementation of performance standards for parent attorneys.

To support the very innovative work of the Louisiana Public Defender Board, the Louisiana CIP has identified funds to contract with the ABA Center on Children and the Law to:

- Help analyze the strengths and areas needing improvement of the current practices of parents' representation, including assisting with gathering baseline data;
- Assist in determining what interventions would be helpful to improve the level of representation that indigent parents receive;
- Assist in determining which Indicators for Success, Toolkit measures, and Practice Standards to use to measure progress;
- Create the tools (surveys, court observation tool, etc.) that would be used to gather information;
- Help unpack the data and understand what it means about the services families are receiving from their lawyers and the courts;
- Assess training needs and provide training for parent attorneys;
- Work with the Louisiana Public Defender Board and the CIP to implement best practice representation models;
- Utilize Continuous Quality Improvement (CQI) principles to create an ongoing feedback loop to track and measure progress; and
- Build the internal capacity of the CIP to improve data driven efforts to make measurable progress towards improving legal representation.

### **New Mexico**

Sandoval County's (13th Judicial District) program involves social work interns, currently supervised by a licensed social worker. Interns are available during the academic year and are paired with attorneys who request their assistance. These partnerships are in place for the duration of the internship period. The SWM has served 47 clients to date with a current caseload of 29 clients. Four of those cases were youth clients and 2 of the current respondents originated in another district, which has been the first opportunity to work through the process of program expansion.

The evaluation of the program includes indicators of access to multi-disciplinary staff, permanency outcomes and satisfactions surveys, consistent with the ABA's Indicators for Success for Parent Representation.

#### INFRASTRUCTURE- Measure 5 - Access to Multi-Disciplinary Staff

- a) Percent of parents' attorneys that have access to social workers as part of the legal team and percent of attorneys who use the social workers; percent of parents' attorneys working in teams with social workers.
  - In Sandoval County, 100% of the attorneys have access to social workers as part of the legal team. The first year the program served respondents in 60% of the cases. During the second year the number has increased, but there is no data available to release at this time.
- b) Percent of parents' attorneys that have access to parent partners/parent mentors as part of the legal team and percent of attorneys who use the parent partners/mentors
  - 100% of the attorneys have access to a parent mentor, but only as of January 20, 2015. (NOTE: Chaves County has had a structured parent mentor program for several years, with results that have not been quantified.) By focusing on the outcomes related to parent mentors under this pilot, we hope to be able to quantify the outcomes for both counties
- c) Percent of parents' attorneys that have access to investigators and percent of attorneys who use the investigators.
  - The pilot does not currently include investigators or paralegal staff.
- d) Percent of parents' attorneys that have access to paralegals and percent of attorneys who use the paralegals.
  - The pilot does not currently include investigators or paralegal staff.
- e) Percent of parents' attorneys that have access to expert witnesses and percent of attorneys who use the expert witnesses.
  - All attorneys have access to expert witnesses. Data are available on the percent of attorneys who utilize this service but these results have not yet been released.

#### Safety/Permanency/Well-being and Due Process- Measure 2 Quality Parent Representation Decreases Time to Safe Permanency

The pilot location has a rather small caseload. While this was done intentionally, the data obtained thus far on permanency outcomes is only based on the 14 cases closed during the first

year of the pilot period. During the first year of the pilot, only one of the respondents in each of the cohort of cases was able to utilize a social worker. Currently all respondents have access to social workers. It is also noteworthy that social workers are now assigned to a case at a much earlier date. Thus, there is likely to be an improvement in the time to safe permanency outcomes over the subsequent years.

Of the 14 clients served in the 14 closed cases:

- 4 were reunified within 7.5 months.
- 5 were relinquished within 7 months.
- 5 had their parental rights terminated within 9.2 months.

### **Arkansas**

The Arkansas Parent Counsel Program is currently focusing on attorney evaluations. Individual attorney evaluations went active in September 2014 and are the first for the program. There are currently 16 evaluations in progress. The goal is to have thirty (30) evaluations (approx. half the staff) completed by the end of the fiscal year (June 30), with the remaining half completed next year. Our evaluation process is a five point process that includes court observation, self-assessment, file review, stakeholder opinion and data trends for each individual attorney. The evaluation process incorporates the Indicators by looking at both in-court and out-of-court representation to determine if our attorneys are meeting minimum levels of advocacy, areas of strengths and weaknesses and the overall quality of representation. By doing so, this also will allow us to determine the greatest area of need in future trainings and parent counsel support.

The end product of our states' focused work is presented here. The Region VI CIPs concluded that positive data in four of the indicators were particularly useful in their respective CQI work and likely to achieve the outcomes desired:

1. Reasonable Caseloads;
2. Access to Multi-Disciplinary Staff;
3. Representation Out of Court;
4. Quality Parent Representation Decreases Time to Safe Permanency.

What follows are: 1) the Indicators for Success for Parent Representation, 2) a paper we worked together on to guide other regions in planning Leadership Forums focused on Parent Representation and, 3) the ABA Standards for Practice for Attorneys Representing Parents, on which we based the Indicators and our reform efforts. We all believe that by measuring the



quality of representation for parents we will be better able to implement reforms that will result in positive outcomes for children and their families. We urge all of our colleagues to prioritize the issue of representation for parents and use these Indicators as a way of furthering your CQI on the topic. For additional information about high quality representation for parents, please take time to explore the National Parent Attorney Project website:

[http://www.americanbar.org/groups/child\\_law/what\\_we\\_do/projects/parentrepresentation.html](http://www.americanbar.org/groups/child_law/what_we_do/projects/parentrepresentation.html)

We hope this information will be as helpful to your CIP as it has been to ours. Should you have any questions or comments, we would be glad to hear from you and/or to share our experiences with you.

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# Indicators of Success for Parent Representation<sup>1</sup>

These indicators are intended to be used to measure the impact of rule, policy, or practice changes on parent representation in a jurisdiction. They represent a continuum from quantitative to more qualitative. The intent of these measures is to provide jurisdictions with options for continuous quality improvement (CQI) systems. Most jurisdictions will only pick a few of the measures to use. Since each state and local jurisdiction is at a different stage in focusing on parent representation, the drafters believed that offering a menu of options would be most useful. Each measure will need to be made specific for the needs of the jurisdiction. When implementing these measures, it is essential to keep in mind that attorneys must use their best professional judgment when handling individual cases. Talking to attorneys about their case analyses is an important component of evaluating quality representation.

The Steering Committee of the National Project to Improve Representation for Parents and Court Improvement Leaders from the Administration for Children Youth and Families (ACYF)'s Federal Region VI prioritized the four measures that appear below designated with "\*" as measures that will most assist jurisdictions in assessing their parent representation systems. These four measures are:

1. Reasonable Caseloads;
2. Access to Multi-Disciplinary Staff;
3. Representation Out of Court;
4. Quality Parent Representation Decreases Time to Safe Permanency.

Data sources are suggestions and may be used in combination or alone. Each jurisdiction will have access to different data sources and should make the most of what is available.

The indicators focus on appointed counsel due to the high percentage of parents that have appointed attorneys and because those data, compared to data on privately retained counsel, are more readily accessible. The measures can also be easily tailored for attorneys practicing in an institutional setting such as legal services offices, public defender offices or stand-alone non-profit entities.

Most measures involve a percentage or comparison between cases in which an action occurred on behalf of parents and all the cases in the jurisdiction. To collect these data, you will need to gather the number of cases in which the intervention occurred and also gather the number of all the cases in the jurisdiction. These may be used for pre versus post implementation or site

to site comparisons, e.g. before and after an intervention or county to county. Since jurisdictions vary in how they calculate some specific measures, comparisons should be made only if it is verified that the measures are calculated similarly.

Jurisdictions vary in terms of which parent(s) receives a court appointed attorney. Ideally, all parents have counsel in child abuse and neglect cases. Even parents who are not subject to abuse or neglect allegations are necessarily subject to limitations of their due process rights and may need legal counsel to help them ensure those rights are protected. However, some jurisdictions only appoint counsel for the “custodial” or the “respondent” parent. Some jurisdictions make decisions about whether a parent is “involved” in the child’s life. When using these measures, you should determine how your jurisdiction handles this issue (sometimes it is determined by law, sometimes by rule and sometimes by practice) and then measure the court appointed attorneys that are provided to parents. Similarly, each jurisdiction will need to determine how it measures a “case.”

While the drafters of this tool believe the measures will assist in strengthening parent representation throughout the country, the group determined that validating these measures before widespread dissemination would ensure their usefulness. Therefore, during federal fiscal year 2014 (October 1, 2013-September 30, 2014) the five Court Improvement Programs in Region VI each tested 2-3 measures in jurisdictions within their states. At the end of this period, the group shared lessons learned and evaluation tools that they found most useful along with a final copy of these indicators.

Improving representation for parents is a process that takes time. Some states and local jurisdictions have already started the process of measuring their results and can be used as guides<sup>2</sup>. These indicators of success will help you determine whether the changes you are making are having positive effects for parents and children.

## A. Infrastructure

### 1. Attorney Appointment

#### Measures:

- a. The percentage of court-involved cases<sup>3</sup> in which attorneys are appointed for one or more parents.
- b. The percentage of court-involved cases in which each parent has a separate assigned attorney.
- c. The jurisdiction made efforts to recruit attorneys who are from diverse backgrounds and have a range of skills.
- d. There is transparency to parents about how appointments are made.

**Factors to consider:**

In many jurisdictions, attorneys are assigned by random selection – if the attorney is next in line, the attorney gets the case. It is important that special circumstances are considered when making an assignment: does the parent only speak a language other than English, are the whereabouts of the parent unknown, is the parent disabled, is the parent incarcerated, etc. and are there particular attorneys who are talented at working with certain subsets of the client population. If so, those clients and attorneys should be matched. No matter what the process of appointment is, the parent should be told what it is.

**Potential Challenges:**

One consideration in calculating these measures includes whether all court involved cases are used in the calculation or only the number of court involved cases which meet the jurisdiction criteria for appointing counsel. It is important to be clear in defining this for both measures.

**Data Sources:**

- court data systems or communication with court clerks
- child welfare agency data systems
- communication with caseworkers through surveys
- interviews with attorneys and management for institutional providers/PD/legal services offices/organizations providing representation

**2. Timely Appointment****Measures:**

- Percentage of attorney appointments for parents made before the first court appearance required by state/tribal statute (e.g. 72 hour hearing/removal hearing/shelter care hearing/continued custody hearing/show cause hearing).
- Percentage of attorneys appointed at the first hearing.

**Data Sources:**

- court data systems or communication with court clerks
- child welfare agency data systems or communication with caseworkers

**Potential Challenges:**

Each jurisdiction will need to determine whether to calculate the percentage of attorney appointments for all parents involved or only for custodial/respondent parents.

Considerations in calculating these measures include whether all court involved cases are used, only the number of court involved cases which meet the jurisdiction's criteria for appointing counsel or only those cases which were actually appointed an attorney. It is important to be clear in defining this for both measures.

### 3. Reasonable Caseloads\*

#### Measures<sup>4</sup>:

- a. There is a caseload cap in place or there is another system to keep manageable case limits for parents' attorneys.
- b. The caseload cap gives consideration to an attorney's entire practice.
- c. The rates paid are sufficient to support an attorney's practice so that the attorney can adhere to the cap.
- d. The caseload cap ensures attorneys have capacity to handle cases through appeal when appropriate.

#### Data Sources:

- CIP
- Court Administration
- management for institutional providers/PD/legal services offices/organizations providing representation, interviews with attorneys

### 4. Continuity of Representation<sup>5</sup>

#### Measures:

- a. The percentage of cases in which the assigned attorney appears in court on behalf of the parent/percentage of substitute parent counsel appearing at hearings.
- b. Percentage of changes in counsel for parents for other reasons (e.g. use of separate appellate panels).

#### Potential Challenges:

Considerations in calculating these measures include whether cases in which counsel are appointed are used to calculate the percentages or whether each parent appointed an attorney is used. It is important to be clear in defining this for both measures.

#### Data Sources:

- court orders
- transcripts
- judicial surveys
- court clerks

## 5. Access to Multi-Disciplinary Staff\*

### Measures:

- a. Percent of parents' attorneys that have access to social workers as part of the legal team and percent of attorneys who use the social workers; percent of parents' attorneys working in teams with social workers.
- b. Percent of parents' attorneys that have access to parent partners/parent mentors as part of the legal team and percent of attorneys who use the parent partners/mentors.
- c. Percent of parents' attorneys that have access to investigators and percent of attorneys who use the investigators.
- d. Percent of parents' attorneys that have access to paralegals and percent of attorneys who use the paralegals.
- e. Percent of parents' attorneys that have access to expert witnesses and percent of attorneys who use the expert witnesses.

**Note:** Some offices have found that attorneys need to be trained about how to make the best use of multi-disciplinary staff. Monitoring the use of these professional staff is a way to learn how many attorneys are using them and where the gaps are<sup>6</sup>.

### Potential Challenges:

Considerations in calculating the first measure includes clearly defining the difference in an attorney using social workers in a case and attorneys working as a team with social workers.

Considerations in calculating these measures include whether the number of attorneys who are available to be appointed as parents' attorneys is used to calculate the percentage or whether each parent appointed an attorney is used. In the first situation, the overall performance of each attorney is evaluated, recognizing there may be a difference in performance from case to case. The second situation would be more of an overall evaluation of the performance of the jurisdiction's service to parents. It is important to be clear in defining this for the measures.

### Data Sources:

- CIP
- court clerks
- parent attorney surveys
- parent partner programs
- management for institutional providers/PD/legal services offices/organizations providing representation

## 6. Parent Attorney-Specific Training and Support

### Measures:

- a. High quality parent attorney-specific training is available. Is this training accessible to all attorneys? How often is it provided? Who provides it and how? How is attendance tracked?
- b. High quality parent attorney-specific training is mandatory. Is this training accessible to all attorneys? How often is it provided? Who provides it and how? How is attendance tracked?
- c. Percentage of parents' attorneys that participate in training.
- d. Training coordinators evaluate the usefulness of the programs.
- e. Training opportunities include those that are interdisciplinary.
- f. Parents' attorneys have the opportunity to attend national conferences. Can they obtain scholarships for those programs?
- g. There is a state/tribe/local listserv for parents' attorneys. Percentage of attorneys that are members of that listserv.

### Data Sources:

- CIP
- court administrators
- surveys and interviews with attorneys
- management for institutional providers/PD/legal services offices/organizations providing representation

## B. Advocacy

### 1. Representation Out of Court\*

### Measures:

- a. Time spent with client outside of court hearings.
- b. Presence at key case events such as mediation, family team meetings, etc.
- c. The frequency and quality of communication with the child welfare agency, other attorneys, service providers and other stakeholders.

### Data Sources:

Some courts have access to this information through time sheets/expense forms. This may also involve collaboration with the child welfare agency to determine parent attorney presence at meetings. Some offices (see Washington State Office of Public Defense) measure the amount of time attorneys spend on average on their cases monthly as well as the percentage of time spent communicating with clients.

- surveys and interviews of all types of attorneys to determine the level of out of court communication could be conducted

**Potential Challenges:**

The method of calculating these measures may depend on available data. Useful data could be the average amount of time per case per time period or percentage of attorneys present at required key events, such as case plan/family team meetings.

**Data Sources, cont.:**

- discussions with management for institutional providers/PD/legal services offices/organizations providing representation
- for attorneys who practice with a team consisting of social workers and/or parent mentors, the time the entire team spends with the client outside of court should be considered

**Measure:**

d. Attorneys are supported in out of court work.

**Factors to consider:**

Are attorneys compensated for out of court work? At what rate? Are attorneys invited to key, out of court events? Do judges articulate an expectation that attorneys should spend time with clients out of court? Are attorneys trained about out of court advocacy?

**Data Sources:**

- court clerks or others who manage financial aspect of representation including attorney billing
- surveys of agency workers and administration
- attorney and judicial surveys
- management for institutional providers/PD/legal services offices/organizations providing representation

**2. Representation at Court****Measures:**

- For every appearance at court (hearing, pre-trial conference, etc.), the percentage of parents who were appointed an attorney who appear with an attorney.
- Percent of continued cases that were continued due to parent's court appointed attorney not being present at court.

**Data Sources:**

- court orders
- court transcripts
- court or child welfare agency data systems
- court clerk communication
- management for institutional providers/PD/legal services offices/organizations providing representation



### 3. Attorney Advocacy

#### Measures:

- a. Do the attorneys front-load their advocacy efforts in the first 90 days of the case, understanding the urgency of this period for the family?
- b. Do attorneys advocate for appropriate services and visitation/family time for parents with the agency and when needed, in court?
- c. Number of motions filed by parents' court appointed attorneys.
- d. Do attorneys provide persuasive legal arguments through motions (oral or in writing), briefs, other pleadings that are helpful to the courts' rulings?
- e. Do attorneys provide factual alternatives, for example through presenting witnesses or documentation, which are useful to judicial decision-making?
- f. Do attorneys engage in appropriate discovery?

#### Potential Challenges:

Measuring advocacy is extremely difficult and may be subjective, but it is important that attorneys are advocating for their clients, not just being present in the courtroom. Attorneys must be presenting evidence about what their clients are doing to address the reasons for removal. Jurisdictions may want to ask both judges and attorneys about these issues to determine:

1. whether attorneys are attempting these types of arguments and
2. whether judges are being persuaded by them and why or why not.

On Attorney Advocacy in particular, one may find that using a single data source will not provide a complete picture. For example, when engaged in court observations, one must be aware that when parents' attorneys are doing an excellent job with out-of-court advocacy there may not be a need to do much inside the courtroom because the client's needs have already been met. However, parents' attorneys must be prepared to advocate inside the courtroom when the client has not received satisfactory assistance in between court hearings.

#### Data Sources:

- court records or conversations with court clerks
- court observations
- sampling through judicial and attorney surveys (surveys of parent, agency, children's, and appellate [if different from trial] attorneys) and interviews
- discussions with management for institutional providers/PD/legal services offices/organizations providing representation

## 4. Appeals

### Measure:

Attorney files appropriate appeals

### Factors to consider:

Does the attorney discuss the option of appeals with clients? Does the attorney counsel client on the likelihood of prevailing on appeal? Does the attorney file appeals when, after discussion with the client, the client directs the attorney to appeal? Does the attorney consider filing an appeal when state/tribal/federal law is against clients and there is an opportunity to improve caselaw for families?

### Data sources:

- review of appellate briefs
- review of appellate record
- surveys or interviews with attorneys
- surveys or interviews with clients

## C. Safety/Permanency/Well-being and Due Process Measures

### 1. Prevention

### Measures:

- Do parents have access to attorneys at the time the agency becomes involved with the family?
- Percent of cases assigned to attorneys prior to the filing of a petition.
- Risk categories and/or risk levels of cases assigned to prevention attorneys during time period under review.
- Percent of pre-petition cases in which petitions are subsequently filed, within six to 12 months.
- Percent of pre-petition cases in which children are subsequently removed, within six to 12 months.
- Percent of cases in which the children are not removed which receive a new re-referral of abuse and neglect which is substantiated within six months of the pre-petition appointment.

### Factors to consider:

For jurisdictions that appoint parent attorneys prior to the agency seeking court intervention, these measures look to the effect of representation for prevention<sup>7</sup>. Some objective measure is needed to show that prevention is effective where there was some potential for removal. If attorneys are assigned to very low risk cases, these may never result in removal with or

### Data Sources:

- dependent on referral process
- court, attorney or agency data reports

without legal counsel. In some jurisdictions attorney referral might be based on cases deemed “high risk” but where safety is currently controlled. This may be based on agency safety/risk assessment tools. Cases may also be assigned to attorneys when particular risk categories are established where a parents’ attorney may be helpful in preventing removal by dealing with legal issues that impact the parent’s ability to keep children at home, for example, legal assistance for special education, housing, or relative custody.

If this is a new program in your jurisdiction, you may request that attorneys document the activities they do on behalf of clients so you can later compare the activity level to the rate of removal.

Jurisdictions may want to continue to track ‘Time to Safe Permanency’ in pre-petition cases after court involvement/removal.

### Data Sources, cont.:

- management for institutional providers/PD/legal services offices/ organizations providing representation

## 2. Quality Parent Representation Decreases Time to Safe Permanency\*

### Measures<sup>8</sup>:

a. Median time to case closure/reunification/physical return home

- i. Percent of cases reunited in less than 1 month
- ii. Percent of cases reunited in 1-5 months
- iii. Percent of cases reunited 6 - 11 months
- iv. Percent of cases reunited in 12-17 months
- v. Percent of cases reunited in 18 - 23 months
- vi. Percent of cases reunited in 24+ months

b. Median time to case closure/other permanency outcomes

c. Reentry rate at intervals after reunification

- i. Percent of cases in which child reentered within 6 months
- ii. Percent of cases in which child reentered within 12 months

d. Parents’ satisfaction with permanency outcome that was achieved.

### Data Sources:

- child welfare agency data
- court data
- parent surveys/focus groups

**Note:** To be most useful, these measures should be viewed in connection to the measures above that are directly related to quality representation. On their own, permanency outcomes will not give a jurisdiction direct information about the level of representation for parents, but if the outcomes are improving while a jurisdiction is working to improve representation, there may be an important correlation.

If in studying rate of reunification, a jurisdiction realizes that many children are returned home in a very short time (less than 2 weeks), the jurisdiction may want to focus on prevention. Parents' attorneys could be useful in helping families avoid placement (e.g., Detroit Center for Family Advocacy).

### 3. Parental Satisfaction

#### Measures:

- a. Parents feel their voices are heard.
- b. Parents believe their attorney helped them access appropriate services and visitation/family time.
- c. Parents understand what they must do to successfully resolve their case.
- d. Parent had regular contact, on days other than a day the parent was expected in court, with the attorney.
- e. Attorney provided advice but allowed the parent to direct the representation.
- f. Attorney office is accessible to clients.
- g. Attorney talked to parent about the opportunity to appeal the case and the likely outcome of the appeal. Attorney followed parent's direction in filing the appeal.
- h. Parent's overall satisfaction with the representation from appointment through the end of the case (including appeal).

**Note:** It is important to include the parents when evaluating the quality of representation. When creating surveys and focus group questions, the questions must be in plain, understandable language. It may merely provide aggregate anecdotal data, but it could be helpful in determining level of attorney/client involvement.

#### Data Sources:

These measures are likely to be based on a sampling via:

- surveys of parents
- focus groups with parents
- coordination with parent partners

Some tools include the National Center for State Courts CourTool #1 Access and Fairness Survey or surveys developed by the ABA Center on Children and the Law.

These surveys could be administered in the court on a set day to get a snapshot perspective of client opinion.

## 4. Obtaining New Attorney

### Measures:

- a. There is a mechanism in place for a parent to obtain a new attorney when he or she is dissatisfied with the original court appointed attorney.
- b. Parents are aware of the system to obtain new counsel.
- c. There is a process in place to determine if parent's complaints have merit.
- d. There is a process to ensure against negative consequences for the parent if they try to get new counsel.
- e. There is a mechanism for other stakeholders to alert the court if there is concern that a parent's attorney is not appropriately engaging with clients.
- f. There is a procedure for attorneys to ask to be relieved of an assignment when the representation can no longer continue.

### Data Sources:

- parent survey/focus group
- parent partners
- judicial survey
- court clerk
- discussions with management for institutional providers/PD/legal services offices/organizations providing representation

<sup>1</sup> This tool was developed in close coordination with the Court Improvement Directors from the Administration for Children Youth and Families (ACYF)'s Federal Region VI as well as staff from the Region VI office and Casey Family Programs. This team dedicated countless hours to developing and implementing these measures.

<sup>2</sup> See CENTER FOR FAMILY REPRESENTATION, OUR RESULTS, [http://www.cfrny.org/new\\_legal.asp](http://www.cfrny.org/new_legal.asp); MARK COURTNEY, JENNIFER HOOK & MATT ORME, EVALUATION OF THE IMPACT OF ENHANCED PARENTAL LEGAL REPRESENTATION ON THE TIMING OF PERMANENCY OUTCOMES FOR CHILDREN IN FOSTER CARE (2011), <http://partnersforourchildren.org/pocweb/userfiles/PRP%20Discussion%20Paper.pdf>; ADMINISTRATIVE OFFICE OF THE COURTS, JUDICIAL COUNCIL OF CALIFORNIA, FACT SHEET: DEPENDENCY REPRESENTATION, ADMINISTRATION, FUNDING, AND TRAINING (DRAFT) PROGRAM (2008), available at [http://www.courts.ca.gov/xbcr/SID-9270A443-39A005C5/cc/DRAFT\\_Fact\\_Sheet.pdf](http://www.courts.ca.gov/xbcr/SID-9270A443-39A005C5/cc/DRAFT_Fact_Sheet.pdf); Detroit Center for Family Advocacy Pilot Evaluation Report 7/2009-6/2012, February 2013, available at [www.law.umich.edu/CFA](http://www.law.umich.edu/CFA). See also, Thornton, Elizabeth and Betsy Gwin, *High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings*, Family Law Quarterly, Vol. 46, No. 1 (Spring 2012) p. 139–154, © 2012 by the American Bar Association.

<sup>3</sup> Court involved cases means a situation where an abuse/neglect petition has been filed and the court has been assigned to determine any matters from shelter/initial/72 hour hearing through permanency.

<sup>4</sup> See, Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases, Obligations of Attorney Managers standard 2/ Role of the Court standard 8, American Bar Association, 2006. See also, WA OPD standard on Caseload.

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<sup>5</sup> See, Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases, Obligations of Attorney Managers standard 4/ Role of the Court standard 4, American Bar Association, 2006.

<sup>6</sup> See e.g. Center for Family Representation for explanation of team model: <http://www.cfrny.org/our-work/team-model/>. See also Brooklyn Defender Services <http://www.bfdp.org/who-we-are/> and Detroit Center for Family Advocacy [www.law.umich.edu/CFA](http://www.law.umich.edu/CFA) for descriptions of similar interdisciplinary models.

<sup>7</sup> For legal advocacy prevention model, see Detroit Center for Family Advocacy Pilot Evaluation Report 7/2009-6/2012, February 2013, available at [www.law.umich.edu/CFA](http://www.law.umich.edu/CFA).

<sup>8</sup> These measures are consistent with the definitions found in the *Toolkit for Court Performance Measures in Child Abuse and Neglect Cases* (Toolkit). Toolkit measure 4A, for example, defines Median Time to Reunification as the time from filing of the original petition to reunification and case closure. However, in jurisdictions “where the original petition for permanent placement is not filed in court within 48 hours of removal, the jurisdiction should consider using the removal date or the date of the emergency removal hearing as a substitute start time for this measure.” See Toolkit Measures, 16; Toolkit Technical Guide 157-167, available at <http://www.ojjdp.gov/publications/courttoolkit.html>.

## Appendix I

### REPORT FROM REGION VI

#### PARENT REPRESENTATION LEADERSHIP FORUM

On September 11-12, 2012, a multidisciplinary group of stakeholders from the Administration for Children Youth and Families (ACYF)'s Federal Region VI states gathered in Norman, Oklahoma for *The Importance of Improving Representation for Parents in the Child Welfare System: A Leadership Forum for Child Welfare Stakeholders*. This paper will describe the process the planning committee followed, the substance of the meeting, the follow up work by each state and the lessons learned. Other Regions that want to convene a similar Leadership Forum can use this paper, the lessons learned from Region VI, the expertise of the Region VI planning committee, as well as the ABA Center on Children and the Law's experience, to guide them through the process.

#### **Background**

The meeting began as an idea from the Louisiana CIP Director, Mark Harris, who wanted a way for parents' attorneys and other stakeholders to learn from colleagues from outside of Louisiana. Mark hoped that the ABA National Parent Attorneys conference would be held annually. When he learned that that was not possible, he started brainstorming other ideas. He and Mimi Laver, the Director of the ABA National Project to Improve Representation for Parents, discussed gathering child welfare professionals from the five states that make up Region VI. These states include Louisiana, Oklahoma, Texas, New Mexico and Arkansas.

In late 2011, Mark reached out to his CIP Director colleagues in Region VI as well as the staff of the federal Region VI office. All agreed they were interested in exploring the idea of a regional parents' attorneys' conference.

On November 7, 2011, Mimi convened the first planning call for the CIP Directors to discuss the regional parents' attorneys meeting. CIP Directors from all five states, Ray Worsham from the Region VI office, David Kelly from the Children's Bureau and Susan Weiss from Casey Family Programs participated in the call. This group became the planning committee for what became the Leadership Forum. Other staff from the Region VI office participated on calls periodically as well.

During the first call, the group began to set a vision of what they wanted to accomplish at the meeting. There was general consensus that whatever substance was covered, it must contain concrete information that lawyers and judges could take back and use in their practices, but

could also use to improve systems. The group talked about how to incorporate tribal courts and also how to improve the level of respect attorneys feel for their practice and how they are treated by other stakeholders. The group started planning immediately.

The planning committee convened again in late November 2011. By this second call, the child and family specialist from the Region VI office had started to look at the logistics of where to conduct the meeting and the Directors compared their program calendars and decided that September 2012 should be the target time for the convening. Most importantly, though, as the conversation developed everyone reached consensus that the meeting should not be a basic level training, but rather a leadership training on systems change. This decision guided all of the planning that occurred from then on. The group was excited to develop mentors and help stakeholders envision what high quality parents' attorneys could do for families. On this call, the group also started talking about which stakeholders to include on state teams for this leadership forum.

On January 11, 2012, the Administration for Children and Families issued its Program Instruction (PI) "Instructions for State Courts Applying for Court Improvement Program (CIP) Funds for Fiscal Years (FYs) 2012-2016." The PI explained that CIPs should be doing Continuous Quality Improvement (CQI) and should be planning for how to do the ongoing quality improvement work. The PI also made quality representation for all parties, including parents, a priority for CIPs. The planning committee used this PI as a guide when considering how to share information with participants at the Leadership Forum about the connection between representation and outcomes and how to measure those outcomes as reforms moved forward.

### **Goals of the meeting**

From early in the planning, the committee identified goals for the meeting. While the wording of some of the goals changed over the planning process, the central themes remained constant: respect for parents and their decision-making role; the importance of the parent's attorney and the impact the attorney can have on improving outcomes for families; understanding the qualities of a high quality attorney; and empowering all participants in the Leadership Forum to return to their jurisdictions ready to make change.

The goals of the Leadership Forum, displayed prominently in the meeting room, were to:

- Understand parents' experiences in the child welfare system.
- Understand how parents' attorneys work to engage and empower parents to be strong decision-makers in their children's lives.



- Realize key impact parents' attorneys play in ensuring positive outcomes for children and their families.
- Work on the messaging that participant/leaders take home focusing on:
  - What do parents want from their attorneys?
  - How would parents like to see the representation they receive improved?
  - What does parent representation currently look like in each state?
  - What are the challenges to significant improvement of parent representation?
  - Why high quality parent representation is essential for judges to make the most informed decisions possible for families.
  - How do we measure success?
  - What has been changing for the positive in the last few years?
- Demonstrate how quality parent representation is tied to improved outcomes through a review of current data from New York, Washington and California.
- Understand that representing parents in abuse/neglect courts is NOT the same as lawyering in criminal court – there is a culture shift and the leaders need to help stakeholders in the states make that shift.
- Understand what is needed at a minimum to achieve quality parent representation, both in and out of the courtroom and at the policy level.
- Empower participants to return home to be leaders, trainers, mentors and system reformers.

### Planning Process

**The leadership of the Region VI CIP Directors and staff was the single most important ingredient** in the success of the Leadership Forum. From the time they made the decision to collaborate on the meeting, each of them was involved in all the decisions about the Forum – both substantive and logistic.

**The planning committee met by phone approximately once a month from January through September 2012.** On those calls, the group put their energy into creating the most meaningful agenda possible. They wanted the agenda to take a balanced approach between presenters giving information and small groups processing the information and ultimately creating work plans that each state team would take home to guide change. They also wanted a balance between speakers from inside Region VI and those who could bring information from outside the Region. The planning team wanted sessions to be interactive so participants could learn from their colleagues in different states. The committee kept a watchful eye on its stated goals and continued to develop those goals throughout the process. In between calls, Mimi updated the agenda and reached out to potential speakers to provide support for the planning committee.

The planning group also took time deciding who from their states would bring the most to the meeting, and would also be most likely to return home ready to involve themselves in reform.

The committee hoped that each state would bring parents' attorneys, judges, agency leadership, and parents. The committee was also open to some members of each team being different from the other states' teams. For example, one state brought a legislator, one brought an agency attorney and one brought a tribal leader. Each of the five states was not able to bring all of the stakeholders originally envisioned, but those people are strongly recommended for any future leadership forums. (See Lessons Learned for more information about key stakeholders to include in future leadership forums).

The Region VI planning committee developed the goals and agenda of the Leadership Forum over the course of 10 months. The benefits of an extended planning period include an extremely well organized and successful meeting, a group of CIP Directors who are bought into the concept of systems change on the issue of parent representation, a group of CIP Directors who are willing and ready to provide the leadership for their jurisdictions on this issue, and hand-picked teams of participants who are poised to make change in their states. If another Region were to convene a similar leadership forum, they would likely not need as long to plan the meeting because of the resources Region VI developed. However, the Region VI planning committee strongly recommends that the next Region engage in a similar planning process to create a leadership forum program that is most suited to the needs of their Region.

**Funding for Forum** The planning team also grappled with how to share responsibilities and the cost of the meeting. The group had in depth conversations during which they: 1. calculated an overall estimate of all the costs; 2. created a proposed budget; 3. considered that some CIP budgets are much smaller than others; and 4. decided how to divide the costs. It was a complicated process but in the end each CIP felt that the division of costs was fair. Ultimately, the CIP from Oklahoma offered to host the meeting because they were able to obtain the lowest cost facilities in a city that all participants could easily travel to. Specifically, they secured a reasonably priced hotel for the Forum, coordinated meals, oversaw meeting registration, formatted and printed the final agenda as well as other hand out material, and organized an outing into Oklahoma City for all interested participants. Oklahoma CIP paid for the hotel costs. The Oklahoma CIP team played a key role in the logistics planning, which took a great deal of their time. Each CIP paid for its team members' expenses. Additionally, each CIP, except for Oklahoma, covered the cost of one speaker from outside the Region.

### **The Leadership Forum Agenda**

The Forum was divided into three general themes: 1. Making the Case for High Quality Parent Representation – the Positive Impact for Parents and Their Families; 2. What Does Quality Representation Look Like?; and 3. This is Not the Work for a Lazy Lawyer! For each theme, the group heard from parents, lawyers and other stakeholders and engaged in conversation to move the issues forward. See Appendix B for full agenda.

### *Making the Case for High Quality Parent Representation*

The committee felt strongly that the participants should hear what the data is showing about quality representation. Through an understanding of data, as well as the voices of parents and excellent lawyers, the committee believed all participants would agree that high quality parent representation is an important key to improving outcomes for children and families. The planning committee included information such as state specific right to counsel statutes, time to appointment, required training, and special certifications required for appointment.

The Forum started with a panel of Region VI attorneys and a parent liaison. This panel described what high quality parent representation looks like to them, and what they do to ensure such representation for clients. The panel provided the elements of an ideal attorney which include:

- an emphasis on quality communication with clients, and communication when necessary with other stakeholders in the client’s case;
- a knowledge of the child welfare system, court processes, and court and agency expectations;
- an ability and willingness to strategize with clients around the client’s goals;
- hearing the client’s voice and working with the client as a team to accomplish the client’s goals; and,
- understanding the importance of the case for the client.

The attorneys on the panel then discussed the challenges and opportunities to be that ideal attorney. Challenges include:

- the timing of the appointment – sometimes attorneys are assigned after the beginning of the case, which makes building a trusting relationship with the client difficult;
- funding and support for the work;
- clients who may be angry, grieving, ashamed, struggling to survive.

The opportunities expressed include:

- contacting clients as soon as appointment is made and ensuring the attorney has the correct contact information;
- building trusting relationships with clients by making time to meet with them, listening to them, helping them work on their case plan with visitation, placements, services, advocating for their goals, working on strategy with the clients and letting them know that their case is important;
- knowledge—knowing the law, knowing what clients are going through, knowing the local culture, and knowing how to be creative;

- building a community – it helps to have other attorneys to talk about work with and to understand biases and limitations.

One of the key points of the panel was the importance of empowering clients. To do this attorneys need to understand that not all parents are the same and the attorneys should not start a case with assumptions about the client. Attorneys need to have an open mind, work with the client and show the client that the attorney will follow through with promises.

Professor Martin Guggenheim from New York University School of Law provided remarks about child welfare across the country and the essential role parents' attorneys can play in reducing the time children spend in foster care and improving the experience parents have while involved with the system. Professor Guggenheim shared signs of progress and best practices from New York and other parts of the country. He shared information about the use of social workers and parent mentors as part of the legal team and talked about promising results seen in New York, Washington and other states. Professor Guggenheim also urged and motivated participants to make real change in their jurisdictions. His remarks validated the importance of convening the Forum for Region VI.

The next panel focused on making the case for high quality representation, *Reframing the Relationship with your Agency: Meeting the Needs of All Parties to Ensure Improved Outcomes*, included a Region VI parents' attorney, a Region VI child welfare director, a Region VI judge and a Child and Family Program Specialist from the federal Region VI office. The panel started with a presentation from ABA staff discussing current data linking high-quality representation for parents to improved permanency outcomes for children and then linking that data to potential cost-savings. The parent attorney on the panel explained the nuts and bolts of a model Region VI parent representation program based in Austin, Texas. The judge on the panel discussed the importance of parent representation and why having quality representation for parents is necessary for good judicial decision-making. Much of the panel discussion focused on the requirements and goals of the child welfare agency. The federal Region VI representative explained the federal review process of the child welfare agency, and the state child welfare director explained the mandated child welfare agency goals and how quality parents' attorneys can help the child welfare agency meet its goals.

#### *What Does Quality Representation Look Like?*

In the next portion of the Leadership Forum participants were challenged to give vision to what excellent representation would actually be. A Region VI father started by sharing his story of losing his child and working very hard to have her returned. He fought addiction and challenges with the child's mother. After his successful reunification, this father has worked tirelessly as a volunteer through the First Steps Towards Reunification (FSTR) Program to help other parents navigate the child welfare system in his jurisdiction. He described the program

and emphasized the concept of FSTR using a team approach with parents as important members of the team. Audience members found the parent to parent learning element extremely powerful.

David Meyers, an attorney from California who developed a video game to train parents' and children's attorneys, facilitated a group discussion through the use of the video game. The video walks through a day in the life of a parent's attorney and allows participants to make choices about how they would work with the "clients" in the game. It makes participants think through the challenges of interviewing clients, going to court, returning phone calls, going to meetings, and trying to do everything involved in maintaining a practice. The group conversation brought out that there is no "one right answer" when working with clients, but rather attorneys need to think about the individual needs of each person. The group talked about the need for attorneys to know what services, and visitation options, are available in their jurisdiction to be able to advocate most effectively. This session built on the first panel of the day and allowed the participants to expand the definition of "ideal attorney" within a real world framework.

The program then moved from focusing on individual attorney activity to how the wider child welfare system can develop and support quality representation. Rena Roach, the Parent Counsel Program Director from Arkansas, and Tracey Davenport, a Louisiana parents' attorney talked with the group about two different models of incorporating standards of practice and accountability into the system.

To end the first day of the convening, participants joined facilitated breakout sessions by discipline (judges with judges, parents with parents, etc.). The CIP Directors facilitated the groups. Conversation focused on the best practices small groups felt were most effective and how each person in their unique role could help bring those practices back to their jurisdictions. Groups discussed challenges, but also the opportunities the assembled leaders had for making change in their states.

### *This is Not Work for a Lazy Lawyer*

The second day of the Leadership Forum was geared toward concrete change. The day started with a talk from an Arkansas attorney and her former client. The theme of the talk was "we are all just one mistake away from being the client." The two women shared their stories of having come from similar families and backgrounds. They each made some mistakes in their adult relationships, and both women were on the path to having their children removed. One of them was lucky enough to have the right family support at the right time and she ended up keeping her baby and becoming a lawyer. The other had her children removed and then found the support she needed, including legal support, to have the children returned. Now the parent

serves on the Arkansas CIP committee and is working hard to help other parents. The two women then talked about the concrete things that the attorney did to assist the parent and how they have since developed an equal friendship and working relationship. This talk was both instructional and inspirational.

Building on the Arkansas team, and everything that was discussed on Day 1, Professor Guggenheim shared his enthusiasm for the work the Region VI leaders were doing and charged them with developing practical action plans with concrete items to take back to their states. He stated, "I did not expect to come to Oklahoma and have a truly transformative experience."

Each state team then met individually in breakout sessions entitled *What is Our Commitment to Change?* The CIP Directors led the discussions and each team picked action steps that they committed to doing when they returned home. The actions the states chose varied considerably, but each state focused on what was realistic to work on when they got back to their states. Each team shared their action steps in the last session of the Forum, *Making a Public Commitment to Change*.

### **State Plans**

Each team thought through its goals, the tasks, the timeline, roles and responsibilities, how it fits into their strategic plan and how they will measure success. They put this into a written action plan that could be used as a guide once the team returned home. The action plan tool and full plans are included in Appendix B.

#### *Texas*

In its state plan, Texas outlined a five point plan. Their five goals are:

- Design and convene a statewide Child Welfare Law Conference;
- Adopt Standards of Representation for Parents' Attorneys;
- Identify an organization that can develop and operate a parent-focused resource such as an Information Packet or Guide for Parents, including parent client's rights, attorney duties, remedies for ineffective assistance, and grievance process;
- Design and convene a Family Time Round Table to discuss the child welfare agency's current policies and practices regarding family visits and visitation;
- Improve family placements at the beginning of conservatorship cases.

#### *Oklahoma*

The Oklahoma delegation chose four goals on which to focus. They are:

- To have parent attorney appointed at the first "show cause" hearing and have attorneys appear with the parents and pilot it in Tulsa County;

- Establish a parent attorney listserv for Oklahoma which includes at least one parent attorney in each judicial district;
- Establish a parent to parent mentoring program and pilot it in Tulsa;
- Include parent attorneys in law rewrites and Oklahoma Uniform Jury Instructions (OUJI's).

### *New Mexico*

New Mexico set forth seven goals in its action plan. They are:

- Meet with the Chief Justice to discuss the Leadership Forum and Action Plan, also discuss at the Parent Representation Workgroup Meeting;
- Gain awareness of what is happening in the different judicial districts around parent representation;
- Plan a parent/judge breakfast at the Children's Law Institute;
- Ensure parent representation is a focus of the Legal Workgroup work;
- Plan and convene a Summit for Parent Representation;
- Conduct trainings based on developments from the Summit;
- Seek new sources of funding to support parent representation.

### *Louisiana*

Louisiana set forth several goals in its action plan. They are:

- Develop accountability methodology/monitoring plan for parent representation;
- Work with the public defender board to develop performance measures for parent representation and collect data over the long term;
- Look at CFSR items that link to quality legal representation for parents;
- Review existing parent representation standards and make sure they are clear and well-organized;
- Explore using IV-E stipends for social work graduate students to work with parents' counsel after and during their education program;
- Explore using CAPTA grant funds to develop program similar to New Mexico's FASTER program, discussed during the leadership forum;
- Meet with the Chief Justice to discuss leadership meetings and the importance of quality legal representation for parents;
- Work on getting a Supreme Court rule requiring parent attorney appointment at 72 hour hearing and explore adding this requirement to the children's code;
- Meet with the state child welfare agency director to discuss what was learned at this meeting;
- Look at ways that high quality legal representation for parents can improve outcomes for children who have a permanency goal of Another Planned Permanent Living Arrangement.

## Arkansas

Arkansas set forth four goals in its action plan. They are:

- Establish regular communication between the child welfare agency director and parent representation program leader;
- Train parents' attorneys and judges about what was learned at this leadership forum and bring parents to speak at the fall child welfare meeting;
- Establish a parent focus group to give child welfare stakeholders ideas about how to best serve families;
- Develop family engagement working group.

### Ongoing Work Since the Forum

The Region VI CIP Directors, federal Region VI staff, Children's Bureau staff and representatives from Casey Family Programs and the ABA Center on Children and the Law continue to meet regularly and discuss ways to improve representation for parents in Region VI and beyond. The group reports back to each other on progress related to implementing their action plans. They rely on each other for suggestions about moving forward and how they can help other regions understand the positive experience the Leadership Forum provided for Region VI.

Additionally, the planning committee started talking about how they would measure any interventions they attempt in their states. The CIP Directors are all committed to connecting parent representation to the CQI efforts they are making. As a result of that conversation, the group decided to create a tool to help them, and other states, analyze change. The group worked together on the *Indicators of Success* tool which presents a range of interventions and provides suggestions on how to collect the data to measure each of the particular interventions. Members of the planning committee, and a group of other child welfare professionals, provided essential input to finalize the tool. The final tool will be distributed widely in late 2013.

In addition to the group conference calls, the ABA Center on Children and the Law, through its collaborations with Casey Family Programs and the Children's Bureau, is committed to working with each of the Region VI states individually. This technical assistance is different for each state, but the ABA Center on Children and the Law will provide support, as needed, to assist the states in implementing their action plans.

### Lessons Learned



While the Region VI Leadership Forum was a big success by many measures there were, of course, some lessons the planning committee learned and things they would do differently if they had the opportunity.

✓ *Focus on Including Agency Leadership*

From the beginning of the planning process, the planning committee discussed inviting state or local child welfare agency leadership to the Forum. Everyone on the committee agreed that agency input was essential for meaningful reform. However, the planning committee did not include any agency leaders. The committee recommends that if another Region plans a similar convening, agency leadership should be included, as much as possible, in the planning process. The Region VI planning committee picked the dates for the Forum based on state calendars, but did not reach out to agency leaders early enough to ensure their attendance at the meeting. As a result, some states' delegations did not include agency leaders which made planning for future reform difficult. One of the best parts of the Forum was having all stakeholders hear the data and the inspiring stories that parents told. This information guided the reform plans. The states that did not have agency representation have worked to engage those leaders since the Forum, but that is more difficult.

In some places, agency leaders are not sure that improving representation for parents will result in better outcomes for agency clients. The forum provided an excellent opportunity for colleagues to talk together and explore their concerns.

✓ *Parent Involvement is Essential*

From the beginning of the planning, the committee hoped each state would be able to bring some parents as part of their delegations. The planning committee believed this was important, and in the end the involvement of parents proved even more important than the committee expected. Bringing parents to a two day meeting out of state presents challenges. Most of the parents that the CIP Directors knew in their states were people who worked and took care of their children. It was difficult for them to get away. The CIP Directors did not know of a lot of parents who would benefit from this meeting so the pool to choose from was limited. The parents who did participate were generally people who were serving as representatives on the CIP advisory boards or who were known in their states as leaders and parent advocates or liaisons. Having more parents would have been a positive thing, but the parents who participated played important roles.

Most of the parents who participated in the Forum served as speakers. They shared practical information about their view of qualities of the best parents' attorneys and they inspired others by sharing their stories of involvement in the child welfare system. They gave voice to some of the issues the professionals discussed. Having parents as speakers was an essential element of the program and Region VI accomplished this exceedingly well.

Another challenge was how to include parents in the breakout sessions. While the professionals in each delegation wanted to hear from the parents, and relied on them to accurately portray the impact attorneys have, the parents themselves did not always seem comfortable in the smaller setting. The committee recommends that each state involved in future leadership forums bring parents, so the parents do not feel as out-numbered. Each parent does not need to be a speaker, but can serve as a delegation member focused on the reforms for the future. Parents could be involved in existing groups such as parent partners or parent mentors. The parents could have their own breakout group in which they discuss their own experiences with their lawyers and based on that develop a top 10 list of things lawyers should/should not do. That top 10 list should then be used to inform practice change. It should be used later in the program when the state teams are developing their action plans. Additionally, if states cannot bring parents to the meeting physically, they might consider bringing video statements from parents to share with participants.

Following the forum, the parents who participated, and others who can be recruited, should be members of the committees focused on improving representation for parents. Having this voice at the table is extremely important. The action plans should be specific about how parents will be incorporated into these committees.

✓ *Speakers Should be Aware of the Balance Between Motivating Best Practice and Including all Stakeholders*

One of the keys to a successful leadership forum focused on quality parent representation is gathering all the important stakeholders, including agency leadership and parents. To make the most of the opportunity of having all these stakeholders together, the speakers must focus on all the people in the room. They must motivate the parents' attorneys in the room, and be truth tellers about the difficulties parents and their attorneys face in the system, but they must also be careful not to alienate the parents, agency or any other stakeholders. It is important for everyone gathered to remember that all parents are not the same and should not be grouped together by stereotypes. This was a point made poignantly by a parent who spoke at the Region VI Leadership Forum.

The forum agenda should include discussion about the idea that reunification is the goal for most families, but it is not the best outcome for all families. Parents' attorneys should be counselors at law which means helping clients understand all possible case results and assisting parents to plan for those results. They should prepare clients that sometimes children cannot go home to their families. The parents' attorney must understand that it is not failure when children do not return home. They should help clients participate in developing the plan that is most positive for the child and the entire family which generally involves reunification, but might also mean placement with a relative or sometimes adoption.

While not all child welfare stakeholders will agree on what reforms are most necessary to improve the child welfare system, most child welfare stakeholders recognize that the system is not perfect. Parents are met, at times, by professionals who are not putting families' interests first and some parents are upset about that. To set the stage for reform, and define why quality legal representation for parents is a necessary part of a well-functioning child welfare system, some speakers may make statements that are controversial and worth discussing in the breakout groups. It is through respectful dialogue, and action following the forum, that change will be made for children and families.

✓ *It Helps to Have a Host State Willing to Coordinate the Logistics and Meeting Set up*

For the Region VI Leadership Forum, Oklahoma CIP volunteered to coordinate the onsite logistics for the meeting. Among other tasks, they secured a reasonably priced hotel for the Forum, coordinated meals, oversaw meeting registration, formatted and printed the final agenda as well as other hand out material, and organized an outing into Oklahoma City for all interested participants. The other states coordinated their own delegations, but were relieved of responsibilities related to onsite logistics. This made the meeting flow smoothly and allowed everyone to focus on the substance of the Forum. If another region were to convene a similar leadership forum, the planning committee recommends that one state manage the onsite meeting logistics.

✓ *Effective Implementation of the Plans Should be Supported by Ongoing Collaboration Between the Participating States*

The Region VI states and federal regional office continue to meet by phone to update each other on progress in implementing their state plans and to get support from each other. The calls have also focused on the development of an Indicators of Success Tool which Region VI states, as well as others, will be able to use to assist in CQI efforts around parent representation. Each state has decided to focus on different aspects of improving parent representation, but the support the CIPs have given each other has been helpful in moving their plans forward.

## **Conclusion**

Bringing multi-disciplinary state child welfare leaders together for an intensive look at parent representation is an effective way of working to improve that representation. The regional approach to doing this proved to be very positive in Region VI. These states are committed to change, to measuring the impact of their efforts, and committed to helping each other create the best child welfare systems possible for their states' children and families.

## Appendix I.A

### Region VI

The Importance of Improving Representation for Parents in the Child Welfare System:

A Leadership Forum for Child Welfare Stakeholders

*"We all have islands of excellence, but what we're looking to do is create a sea of change."*

September 11-12, 2012

### [Agenda](#)

([www.americanbar.org/content/dam/aba/administrative/child\\_law/ParentRep/RegionVI\\_LeadershipForum2012\\_Agenda.pdf](http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/RegionVI_LeadershipForum2012_Agenda.pdf))

## Appendix I.B

The Importance of Improving Representation for Parents in the Child Welfare System:

A Leadership Forum for Child Welfare Stakeholders

### Parent Representation Forum – Action Plan Worksheet

<b>Goal/Objective</b> (Specific, Measurable, Actionable, Realistic, Timely)	<b>Task(s)</b> (What needs to be accomplished to make this goal a reality?)	<b>Timeline</b> (Indicate tasks and specific due dates. Think short and long term)	<b>Roles &amp; Responsibilities</b> (Clear roles and responsibilities)	<b>Strategic Plan</b> (Identify where this will fit into your strategic plan)	<b>Measureable Objectives</b> (How will this goal/objective be measured?)

## Appendix II

### American Bar Association

## Standards of Practice for Attorneys Representing

### Parents in Abuse and Neglect Cases

#### Introduction

These standards promote quality representation and uniformity of practice throughout the country for parents' attorneys in child abuse and neglect cases. These standards became official ABA Policy when approved by the ABA House of Delegates in 2006. The standards were written with the help of a committee of practicing parents' attorneys and child welfare professionals from different jurisdictions in the country. With their help, the standards were written with the difficulties of day-to-day practice in mind, but also with the goal of raising the quality of representation. While local adjustments may be necessary to apply these standards in practice, jurisdictions should strive to meet their fundamental principles and spirit.

The standards are divided into the following categories:

1. Summary of the Standards
2. Basic Obligations of Parents' Attorneys
3. Obligations of Attorney Manager
4. The Role of the Court

The standards include "black letter" requirements written in bold. Following the black letter standards are "actions." These actions further discuss how to fulfill the standard; implementing each standard requires the accompanying action. After the action is "commentary" or a discussion of why the standard is necessary and how it should be applied. When a standard does not need further explanation, no action or commentary appears. Several standards relate to specific sections of the Model Rules of Professional Conduct, and the Model Rules are referenced in these standards. The terms "parent" and "client" are used interchangeably throughout the document. These standards apply to all attorneys who represent parents in child abuse and neglect cases, whether they work for an agency or privately.

As was done in the *Standards of Practice for Attorneys Representing Child Welfare Agencies*, ABA 2004, a group of standards for attorney managers is included in these standards. These standards primarily apply to parents' attorneys who work for an agency or law firm – an institutional model of representation. Solo practitioners, or attorneys who individually receive appointments from the court, may wish to review this part of the standards, but may find some do not apply. However, some

standards in this section, such as those about training and caseload, are relevant for all parents' attorneys.

As was done in the *Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases*, ABA 1996, a section of the standards concerns the Role of the Court in implementing these *Standards*. The ABA and the National Council of Juvenile and Family Court Judges have policies concerning the importance of the court in ensuring that all parties in abuse and neglect cases have competent representation.

Representing a parent in an abuse and neglect case is a difficult and emotional job. There are many responsibilities. These standards are intended to help the attorney prioritize duties and manage the practice in a way that will benefit each parent on the attorney's caseload.

## **SUMMARY: ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases**

Basic Obligations: The parent's attorney shall:

### **General:**

- 1. Adhere to all relevant jurisdiction-specific training and mentoring requirements before accepting a court appointment to represent a parent in an abuse or neglect case.**
- 2. Acquire sufficient working knowledge of all relevant federal and state laws, regulations, policies, and rules.**
- 3. Understand and protect the parent's rights to information and decision making while the child is in foster care.**
- 4. Actively represent a parent in the pre-petition phase of a case, if permitted within the jurisdiction.**
- 5. Avoid continuances (or reduce empty adjournments) and work to reduce delays in court proceedings unless there is a strategic benefit for the client.**
- 6. Cooperate and communicate regularly with other professionals in the case.**

**Relationship with the Client:**

7. Advocate for the client's goals and empower the client to direct the representation and make informed decisions based on thorough counsel.
8. Act in accordance with the duty of loyalty owed to the client.
9. Adhere to all laws and ethical obligations concerning confidentiality.
10. Provide the client with contact information in writing and establish a message system that allows regular attorney-client contact.
11. Meet and communicate regularly with the client well before court proceedings. Counsel the client about all legal matters related to the case, including specific allegations against the client, the service plan, the client's rights in the pending proceeding, any orders entered against the client and the potential consequences of failing to obey court orders or cooperate with service plans.
12. Work with the client to develop a case timeline and tickler system.
13. Provide the client with copies of all petitions, court orders, service plans, and other relevant case documents, including reports regarding the child except when expressly prohibited by law, rule or court order.
14. Be alert to and avoid potential conflicts of interest that would interfere with the competent representation of the client.
15. Act in a culturally competent manner and with regard to the socioeconomic position of the parent throughout all aspects of representation.
16. Take diligent steps to locate and communicate with a missing parent and decide representation strategies based on that communication.
17. Be aware of the unique issues an incarcerated parent faces and provide competent representation to the incarcerated client.
18. Be aware of the client's mental health status and be prepared to assess whether the parent can assist with the case.

**Investigation:**

19. Conduct a thorough and independent investigation at every stage of the proceeding.



20. Interview the client well before each hearing, in time to use client information for the case investigation.

Informal Discovery:

21. Review the child welfare agency case file.
22. Obtain all necessary documents, including copies of all pleadings and relevant notices filed by other parties, and information from the caseworker and providers.

Formal Discovery:

23. When needed, use formal discovery methods to obtain information.

Court Preparation:

24. Develop a case theory and strategy to follow at hearings and negotiations.
25. Timely file all pleadings, motions, and briefs. Research applicable legal issues and advance legal arguments when appropriate.
26. Engage in case planning and advocate for appropriate social services using a multidisciplinary approach to representation when available.
27. Aggressively advocate for regular visitation in a family-friendly setting.
28. With the client's permission, and when appropriate, engage in settlement negotiations and mediation to resolve the case.
29. Thoroughly prepare the client to testify at the hearing.
30. Identify, locate and prepare all witnesses.
31. Identify, secure, prepare and qualify expert witness when needed. When permissible, interview opposing counsel's experts.

Hearings:

32. Attend and prepare for all hearings, including pretrial conferences.
33. Prepare and make all appropriate motions and evidentiary objections.

34. Present and cross-examine witnesses, prepare and present exhibits.
35. In jurisdictions in which a jury trial is possible, actively participate in jury selection and drafting jury instructions.
36. Request closed proceedings (or a cleared courtroom) in appropriate cases.
37. Request the opportunity to make opening and closing arguments.
38. Prepare proposed findings of fact, conclusions of law and orders when they will be used in the court's decision or may otherwise benefit the client.

**Post Hearings/Appeals:**

39. Review court orders to ensure accuracy and clarity and review with client.
40. Take reasonable steps to ensure the client complies with court orders and to determine whether the case needs to be brought back to court.
41. Consider and discuss the possibility of appeal with the client.
42. If the client decides to appeal, timely and thoroughly file the necessary post-hearing motions and paperwork related to the appeal and closely follow the jurisdiction's Rules of Appellate Procedure.
43. Request an expedited appeal, when feasible, and file all necessary paperwork while the appeal is pending.
44. Communicate the results of the appeal and its implications to the client.

**Obligations of Attorney Managers:**

Attorney Managers are urged to:

1. Clarify attorney roles and expectations.
2. Determine and set reasonable caseloads for attorneys.
3. Advocate for competitive salaries for staff attorneys.
4. Develop a system for the continuity of representation.

5. Provide attorneys with training and education opportunities regarding the special issues that arise in the client population.
6. Establish a regular supervision schedule.
7. Create a brief and forms bank.
8. Ensure the office has quality technical and support staff as well as adequate equipment, library materials, and computer programs to support its operations.
9. Develop and follow a recruiting and hiring practice focused on hiring highly qualified candidates.
10. Develop and implement an attorney evaluation process.
11. Work actively with other stakeholders to improve the child welfare system, including court procedures.

#### **Role of the Court**

The Court is urged to:

1. Recognize the importance of the parent attorney's role.
2. Establish uniform standards of representation for parents' attorneys.
3. Ensure the attorneys who are appointed to represent parents in abuse and neglect cases are qualified, well-trained, and held accountable for practice that complies with these standards.
4. Ensure appointments are made when a case first comes before the court, or before the first hearing, and last until the case has been dismissed from the court's jurisdiction.
5. Ensure parents' attorneys receive fair compensation.
6. Ensure timely payment of fees and costs for attorneys.
7. Provide interpreters, investigators and other specialists needed by the attorneys to competently represent clients. Ensure attorneys are reimbursed for supporting costs, such as use of experts, investigation services, interpreters, etc.

8. **Ensure that attorneys who are receiving appointments carry a reasonable caseload that would allow them to provide competent representation for each of their clients.**
9. **Ensure all parties, including the parent's attorney, receive copies of court orders and other documentation.**
10. **Provide contact information between clients and attorneys.**
11. **Ensure child welfare cases are heard promptly with a view towards timely decision making and thorough review of issues.**

For actions and commentary, see:

**[Parent Representation Standards Passed by ABA House of Delegates - August 2006](http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/parentrepresentation/ABA-Parent-Attorney-Standards.pdf)**

**[http://www.americanbar.org/content/dam/aba/publications/center\\_on\\_children\\_and\\_the\\_law/parentrepresentation/ABA-Parent-Attorney-Standards.pdf](http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/parentrepresentation/ABA-Parent-Attorney-Standards.pdf)**