



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

Post-petition legal representation involves advocacy on behalf of parents after a dependency petition (request to remove a child due to alleged maltreatment) has been filed in family court, both in situations where a child remains at home under the jurisdiction of the court and where a child is placed in foster care.¹ While this advocacy includes formal legal representation in court, it must also include advocacy related to any additional civil legal issues that directly impact access to the resources parents need to care for their children.

[Numerous studies](#) have shown that [high-quality post-petition representation](#) for parents and children involved in child welfare proceedings has many benefits, including increased parental engagement, more frequent visitation, and better access to services. Most importantly, quality legal representation has been shown to reduce the length of time children spend in foster care away from their families — and in some cases, prevent family separation altogether. High-quality legal representation can take many forms. It can occur in institutional settings where an attorney is part of a larger nonprofit or governmental office with colleagues working together to support parents. It can occur as part of a multidisciplinary team, in which lawyers work alongside parent mentors, social workers, investigators, and others. It also can occur with solo practitioners working as part of a statewide program in which the lawyer receives support and training from a centralized office.

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Regardless of the setting, high-quality post-petition representation must include several components:

- Attorneys as unfailing advocates for their clients using all available legal tools.
- Specialized and ongoing training for attorneys to support their work, including training about the [impacts of trauma](#) and [systemic bias](#).
- Support and accountability for attorneys as outlined in the American Bar Association's [Standards of Practice of Attorneys Representing Parents in Abuse and Neglect Cases](#).
- Considerable time spent outside of court working with parents, attending administrative meetings, and addressing collateral legal issues impacting the family (such as education, public benefits, housing, employment), or partnering with legal service providers who can address those matters.
- Comprehensive advocacy on behalf of parents at both the trial court and appellate levels beginning as early in the case as possible.

- Reasonable caseloads and compensation, as recommended in the American Bar Association's [Indicators of Success for Parent Representation](#).

The [Family Justice Initiative](#) has done extensive work to define high-quality post-petition legal representation, including identifying examples of innovative programs and research about the impacts of legal representation on child welfare outcomes.

Nearly every jurisdiction provides parents with a right to counsel for post-petition legal representation, although the point in time [when counsel is appointed may vary](#). While states and counties typically fund these services, the federal government recently issued [policy guidance](#) to permit the use of federal funds under Title IV-E of the Social Security Act to match local expenditures for legal representation. Accordingly, judges and lawyers should work with child welfare agency officials in their state to access IV-E funds for legal representation.

1 Content of this brief was informed by consultation with members of the KM Lived Experience Advisory Team on 5/11/21 and 5/25/21. This team includes youth, parents, kinship caregivers, and foster parents with lived experience of the child welfare system who serve as strategic partners with [Family Voices United](#), a collaboration between FosterClub, Generations United, the Children's Trust Fund Alliance, and Casey Family Programs. Members who contributed to this brief include Keith Lowhorne, Marquetta King, Roberto Partida, and Aliyah Zeien.

This brief was developed by the National Preventive Legal Advocacy Partnership (NPLAP) – a multidisciplinary group of experts in child welfare practice, access to justice, and the legal system – convened by Casey Family Programs. The goal of the NPLAP is improving preventive legal advocacy efforts and contributing to an overall population-based, public health approach to community well-being. Visit [Preventive Legal Advocacy](#) for additional resources and information.

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